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Bill 148 **Government Bill**

2ND SESSION, 34TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 148

An Act to amend the Change of Name Act, 1986

The Hon. G. Sorbara
*Minister of Consumer and
Commercial Relations*

1st Reading April 18th, 1990
2nd Reading
3rd Reading
Royal Assent

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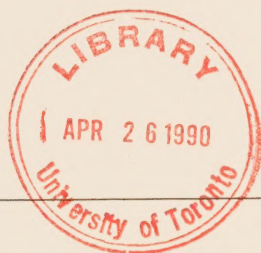
Projet de loi 148 **du gouvernement**

2^e SESSION, 34^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Projet de loi 148

Loi portant modification de la Loi de 1986 sur le changement de nom

L'honorable G. Sorbara
*ministre de la Consommation et
du Commerce*



1^{re} lecture 18 avril 1990
2^e lecture
3^e lecture
sanction royale

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EXPLANATORY NOTE

The Act provides that when a person whose birth was registered in Ontario changes his or her surname as a consequence of entering into or dissolving a marriage or conjugal relationship, his or her birth certificate is changed accordingly. The purpose of the Bill is to repeal that provision.



NOTE EXPLICATIVE

La loi prévoit que lorsqu'une personne dont la naissance a été enregistrée en Ontario change son nom de famille par suite d'un mariage ou d'une union conjugale ou de la dissolution d'un mariage ou d'une union conjugale, son certificat de naissance est modifié en conséquence. L'objet du projet de loi est d'abroger cette disposition.

Bill 148**1990****An Act to amend the
Change of Name Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1986, c. 7

1. Subsection 2 (1) of the *Change of Name Act, 1986* is repealed and the following substituted:

Person's
name

(1) For all purposes of Ontario law,

- (a) a person whose birth is registered in Ontario is entitled to be recognized by,
 - (i) the name appearing on the person's change of name certificate, if the person's name has been changed under section 3, or
 - (ii) in all other cases, the name appearing on the person's birth certificate or change of name certificate; and
- (b) a person whose birth is not registered in Ontario is entitled to be recognized by,
 - (i) the name appearing on the person's change of name certificate, if the person's name has been changed under this Act or a predecessor of it, or
 - (ii) in all other cases, the name recognized in law in the last place with which the person had a real and substantial connection before residing in Ontario.

Exception

(1a) Despite subsection (1), a person who adopted a name on marriage before the 1st day of April, 1987 is entitled to be recognized by that name unless the person subsequently changed that name under this Act or a predecessor of it.

Projet de loi 148**1990****Loi portant modification de la
Loi de 1986 sur le changement de nom**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Le paragraphe 2 (1) de la *Loi de 1986 sur le changement de nom* est abrogé et remplacé par ce qui suit : 1986, chap. 7

(1) À toutes les fins de la loi de l'Ontario :

Nom de la
personne

a) la personne dont la naissance a été enregistrée en Ontario a le droit d'être connue :

(i) sous le nom qui figure sur son certificat de changement de nom, si le nom de la personne a été changé en vertu de l'article 3,

(ii) sous le nom qui figure sur son certificat de naissance ou de changement de nom, dans tous les autres cas;

b) la personne dont la naissance n'a pas été enregistrée en Ontario a le droit d'être connue :

(i) sous le nom qui figure sur son certificat de changement de nom, si le nom de la personne a été changé en vertu de la présente loi ou d'une loi que celle-ci remplace,

(ii) sous le nom reconnu par la loi du dernier ressort avec lequel elle avait des liens étroits et véritables avant de résider en Ontario, dans tous les autres cas.

(1a) Malgré le paragraphe (1), la personne qui, avant le 1^{er} avril 1987, a pris un nom lors de son mariage, a le droit d'être connue sous ce nom à moins qu'elle ne l'ait changé par la suite en vertu de la présente loi ou d'une loi que celle-ci remplace. Exception

2. Subsection 3 (4) of the Act is repealed and the following substituted:

Certificate

(4) On receiving the fee and documents, the Registrar General shall register the change of name and issue a change of name certificate to the person.

3. Subsection 12 (5) of the Act is repealed and the following substituted:

Use of
superseded
certificate

(5) A person is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 if,

- (a) after his or her name is changed under section 3, the person knowingly uses a birth certificate or change of name certificate that was issued in Ontario and that shows a former name of the person, without at the same time using or acknowledging the change of name certificate issued under section 3; or
- (b) after his or her name is changed under any other section of this Act, the person knowingly uses a birth certificate or change of name certificate that was issued in Ontario and that shows a former name of the person.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Change of Name Amendment Act, 1990*.

2 Le paragraphe 3 (4) de la loi est abrogé et remplacé par ce qui suit :

(4) Lorsqu'il reçoit les droits et les documents, le registraire général enregistre le changement de nom et délivre un certificat de changement de nom à la personne. Certificat

3 Le paragraphe 12 (5) de la loi est abrogé et remplacé par ce qui suit :

(5) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$ la personne qui : Utilisation du
certificat
caduc

- a) après que son nom a été changé en vertu de l'article 3, utilise sciemment un certificat de naissance ou de changement de nom qui a été délivré en Ontario et qui porte un ancien nom de cette personne, sans utiliser en même temps le certificat de changement de nom qui lui a été délivré aux termes de l'article 3 ou déclaré l'existence de ce certificat;
- b) après que son nom a été changé en vertu d'un autre article de la présente loi, utilise sciemment un certificat de naissance ou de changement de nom qui a été délivré en Ontario et qui porte un ancien nom de cette personne.

4 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en
vigueur

5 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le changement de nom*. Titre abrégé

Bill 149

An Act to amend the Trespass to Property Act

The Hon. I. Scott
Attorney General



1st Reading June 7th, 1988

2nd Reading

3rd Reading

Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The Bill's amendments to the *Trespass to Property Act* fall into five categories:

1. Following the recommendations of the *Anand Task Force on the Law Concerning Trespass to Publicly-Used Property as it Affects Youth and Minorities*, this Bill limits the occupier's discretion to exclude persons from premises such as shopping centres and parks.

Proposed sections 1a to 1j of the Act (section 2 of the Bill) apply to premises used by the public (a defined term). The occupiers of premises used by the public may exclude persons from the premises only for conduct that is not compatible with the public's use of the premises, or for contravening reasonable rules of which notice has been given (proposed sections 1c and 1d of the Act). Criteria for determining whether a person's conduct is not compatible with the public's use of the premises, and for determining whether an occupier's rule is reasonable, are set out in proposed sections 1e and 1f of the Act. The occupier may prohibit a person whose conduct constitutes an offence under the Act from re-entering the premises during a period of up to thirty days (proposed section 1g of the Act).

Proposed sections 1h to 1j of the Act and proposed subsection 4a (1) of the Act (section 5 of the Bill) set out defences to the new offence provisions.

Sections 8, 9, 11 and 12 of the Bill make complementary amendments.

2. The Act is made to apply to vehicles that are in operation (subsection 1 (2) of the Bill, amending subclause (iv) of the definition of "premises", which now reads "trains, railway cars, vehicles and aircraft, except while in operation"). As a result, operators of vehicles that are in operation will be able to enforce the Act. (The definition as now worded has been interpreted to require the operator of a public transit vehicle to clear it of other passengers before excluding an unruly passenger).

Proposed subsection 4a (2) of the Act (section 5 of the Bill) would complement the amended definition of "premises".

3. The notice provisions of the Act are amended to address the different situations of indoor and outdoor premises (proposed subsection 1c (2) and section 4 of the Act, sections 2 and 4 of the Bill), and indoor and outdoor signs (proposed section 5 of the Act, section 6 of the Bill). As well, section 6 of the Bill amends clause 5 (1) (a) of the Act to take account of types of communication other than oral and written, such as sign language.
4. Section 10 of the Bill revises section 11 of the Act, to allow the prosecution, under certain circumstances, of owners of motorized snow vehicles that are used to commit trespass. At present, only the owners of "motor vehicles" (the *Highway Traffic Act* definition, which does not include motorized snow vehicles) can be so prosecuted. As well, the current scheme of vicarious liability for individual, as opposed to corporate, owners is replaced with a presumption of liability that gives way if there is reasonable doubt.
5. The colour of right defence, found in subsection 2 (2) of the current Act, is moved to proposed subsection 4a (1) of the Act (section 5 of the Bill), because it applies to both premises used by the public and other premises.

Bill 149

1989

An Act to amend the Trespass to Property Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause 1 (1) (b) (iv) of the *Trespass to Property Act*, being chapter 511 of the Revised Statutes of Ontario, 1980, is amended by striking out “except while in operation” in the first and second lines.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clauses:

(c) “premises used by the public” means premises to which the public is ordinarily admitted, whether a fee is charged for admission or not, and whose occupier is,

(i) a public authority,

(ii) any other person, if the public is admitted for the occupier’s economic benefit,

but does not include the common areas of a residential complex that are intended for the use of its residents;

(d) “public authority” means the Crown, a Crown agency, a municipality or local board, a conservation authority, a board as defined in the *Public Libraries Act, 1984* or any similar entity, except a board as defined in the *Education Act*.

1984, c. 57

R.S.O. 1980,
c. 129

2. The said Act is amended by adding thereto the following sections:

PREMISES USED BY THE PUBLIC

Application
of
ss. 1b to 1j

1a. Sections 1b to 1j apply in respect of premises used by the public, except during the hours that the public is not admitted to them.

Public
entitled to
use premises

1b. Members of the public are entitled to enter and remain on premises used by the public, subject to subsection 1c (1) (conduct incompatible with public's use, contravention of rules), section 1d (refusal to leave), subsection 1g (1) (re-entry after notice) and any other law.

Offence:
conduct in-
compatible
with public's
use of
premises,
contravention
of rules

1c.—(1) Every person who, on premises used by the public,

- (a) engages in conduct that is not compatible with the public's use of the premises; or
- (b) contravenes any of the occupier's reasonable rules, of which notice has been given, to govern conduct on the premises,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Limited
permission

(2) For the purposes of clause (1) (b), notice that a particular activity is permitted on outdoor premises is notice that all other activities and entry for the purpose are prohibited, and any additional notice of a prohibition shall be considered to be only for greater certainty.

Offence:
refusal to
leave

1d. Every person who engages in conduct that constitutes an offence under subsection 1c (1) and who, on being told of the conduct and directed to leave the premises by the occupier or a person authorized by the occupier, does not do so immediately is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Criteria:
conduct in-
compatible
with public's
use of
premises

1e. In determining whether a person's conduct is not compatible with the public's use of premises, the court shall consider,

- (a) the nature of the conduct;
- (b) the time when the person engaged in the conduct and the frequency of its repetition;
- (c) the nature of the public's use of the premises;

- (d) the degree of disruption, if any, caused by the conduct; and
- (e) the consequences of the conduct for other persons using the premises and for the occupier.

1f. In determining whether an occupier's rule is reasonable, the court shall consider the nature of the premises or part of the premises to which the rule applies.

Determination of reasonableness

1g.—(1) Every person who enters on premises or a part of premises used by the public when that entry has been prohibited in accordance with subsections (2) and (3) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence: re-entry after notice

(2) The occupier or a person authorized by the occupier may prohibit a person from entering on premises or a part of premises, for a specified period not exceeding thirty days from the date of the conduct complained of, by giving the person a notice prohibiting re-entry on premises.

Notice prohibiting re-entry on premises

(3) The notice prohibiting re-entry on premises shall be in the form prescribed by the regulations and shall,

Idem

- (a) state that the person has engaged in conduct that constitutes an offence under subsection 1c (1) and describe the conduct;
- (b) inform the person of the defence available under section 1h; and
- (c) identify the premises or part of the premises to which the notice applies.

1h.—(1) It is a defence to a charge under subsection 1g (1) that the person, before entering the premises or part of the premises, gave the occupier or the occupier's agent a written statement indicating,

Defence: re-entry after notice

- (a) that the conduct complained of did not occur;
- (b) that the conduct was compatible with the public's use of the premises and did not contravene any of the occupier's reasonable rules of which notice was given; or
- (c) that the conduct was compatible with the public's use of the premises, and that the rule contravened is not reasonable or that notice of it was not given.

Idem

(2) The defence fails if the occupier satisfies the court that the part of the person's statement referred to in clause (1) (a), (b) or (c) is incorrect.

Defence:
re-entry after
notice

1i. It is also a defence to a charge under subsection 1g (1) that it was necessary to enter the premises or part of the premises in respect of which the defendant was given a notice prohibiting re-entry, in order to go to a part of those premises or to other premises on which the defendant had the permission of an occupier to be, and that the defendant's activities were confined to,

- (a) gaining access to that part or those other premises; and
- (b) activities thereon permitted by that occupier.

Defence:
occupier's
permission

1j.—(1) It is a defence to a charge under subsection 1c (1), section 1d or subsection 1g (1) that the person had the occupier's express permission to enter on the premises or to engage in the activity.

Exception:
right or
authority
under law

(2) It is also a defence to a charge under subsection 1c (1), section 1d or subsection 1g (1) that the person was acting under a right or authority conferred by law.

OTHER PREMISES

Application
of
ss. 2, 3 and
4

1k. Sections 2, 3 and 4 apply in respect of,

- (a) premises other than premises used by the public;
- (b) premises used by the public, during the hours that the public is not admitted to them.

3. Subsection 2 (2) of the said Act is repealed.

4. Section 4 of the said Act is repealed and the following substituted therefor:

Limited
permission

4.—(1) Where notice is given that a particular activity is permitted on outdoor premises,

- (a) all other activities and entry for the purpose are prohibited; and
- (b) any additional notice of a prohibition shall be considered to be only for greater certainty.

(2) Where notice is given that a particular activity is prohibited on outdoor premises, and entry on the premises is not prohibited as provided by section 3 or subsection (1),

Limited
prohibition

- (a) that activity and entry for the purpose are prohibited; and
- (b) all other lawful activities and entry for the purpose are permitted.

5. The said Act is further amended by adding thereto the following section:

GENERAL

4a.—(1) It is a defence to a charge under subsection 1c (1), section 1d, subsection 1g (1) or subsection 2 (1), in respect of premises that are land, that the person charged reasonably believed that the person had an interest in the land that entitled the person to do the act complained of.

Defence:
colour of
right

(2) It is a defence to a charge under section 1d or subsection 2 (1), in respect of premises that are a ship, vessel, train, railway car, vehicle or aircraft, that the person could not leave the premises safely immediately after being directed to do so because of the location or motion at that time of the ship, vessel, train, railway car, vehicle or aircraft, but left as soon as it was safe.

Idem:
vehicle in
motion

6. Section 5 of the said Act is repealed and the following substituted therefor:

5.—(1) A notice under this Act may be given,

Method of
giving notice

- (a) by direct communication, whether orally, in writing or otherwise;
- (b) by means of outdoor signs posted so that they are clearly visible in daylight under normal conditions at each ordinary point of access to the premises to which they apply;
- (c) by means of indoor signs posted prominently at each ordinary point of access to the premises to which they apply or, if it is intended to govern conduct only on a part of the premises, posted so that persons entering that part of the premises are likely to see them; or

- (d) by means of outdoor markings in accordance with the marking system set out in section 7.

Substantial
compliance

(2) Substantial compliance with clause (1) (b), (c) or (d) is sufficient notice.

7. Subsection 7 (4) of the said Act is amended by striking out “from the approach to” in the third line and inserting in lieu thereof “at”.

8. Subsection 9 (1) of the said Act is amended by striking out “section 2” in the fourth line and inserting in lieu thereof “subsection 1c (1), section 1d, subsection 1g (1) or subsection 2 (1)”.

9. Section 10 of the said Act is amended by striking out “section 2” in the second line and inserting in lieu thereof “subsection 1c (1), section 1d, subsection 1g (1) or subsection 2 (1)”.

10. Section 11 of the said Act is repealed and the following substituted therefor:

Motorized
vehicles

11.—(1) In subsections (2) and (3), “motorized vehicle” means a vehicle propelled or driven otherwise than by muscular power, and includes an automobile, a motorcycle, a motor assisted bicycle, a motorized snow vehicle and an off-road vehicle.

Owner an
individual

(2) Where an offence under this Act is committed by means of a motorized vehicle and the owner of the vehicle is an individual, the owner shall be deemed to have been the driver, unless there is a reasonable doubt that that was the case.

Owner a
corporation

(3) Where an offence under this Act is committed by means of a motorized vehicle and the owner of the vehicle is a corporation, the corporation is liable to the fine provided by this Act, unless the driver is convicted of the offence or the corporation satisfies the court that the vehicle was being driven without its consent when the offence was committed.

11.—(1) Subsection 12 (1) of the said Act is amended by striking out “section 2” in the second line and inserting in lieu thereof “subsection 1c (1), section 1d, subsection 1g (1) or subsection 2 (1)”.

(2) Subsection 12 (2) of the said Act is amended by striking out “section 2” in the first line and inserting in lieu thereof “subsection 1c (1), section 1d, subsection 1g (1) or subsection 2 (1)”.

12. The said Act is further amended by adding thereto the following section:

13. The Lieutenant Governor in Council may make regu- Regulations
lations prescribing the form of the notice prohibiting re-entry
on premises referred to in subsection 1g (3).

13. This Act comes into force on the 1st day of January, Commence-
1989. ment

14. The short title of this Act is the *Trespass to Property* Short title
Amendment Act, 1989.

Bill 150

An Act to amend the Vital Statistics Act

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations



1st Reading April 18th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill permits the Registrar General to maintain records by means of modern information storage systems. Registrations and other documents will be accurately recorded and stored on a system. Original paper registrations and other documents may be transferred to the Archives as they are identified by the Lieutenant Governor in Council and listed in the regulations to the Act. Certificates and certified copies of registrations made from recorded registrations will be admissible in court to the same extent as certificates and certified copies made from original paper registrations. Similarly, paper copies made from recorded documents, other than registrations, will be admissible to the same extent as original documents.

Other provisions in the Bill are intended to streamline the Act's administration:

1. Registrations lacking a signature may be returned by the Registrar General for completion directly to the persons responsible for them.
2. The International List of Causes of Death will no longer be referred to in the Act. Instead, a classification of diseases will be adopted by reference in the regulations.
3. Inspectors are to be appointed by the Registrar General, not the Lieutenant Governor in Council.
4. The Registrar General's seal of office may be reproduced in any manner.
5. More distantly related and unrelated persons, in addition to the parents, are authorized to certify a still-birth.
6. The Registrar General is empowered to recall certificates and certified copies of a registration that were issued before the registration was corrected or cancelled.
7. The Registrar General is further empowered to make a new registration based on correct information when the existing registration is determined to be fraudulent.

Bill 150

1990

An Act to amend the Vital Statistics Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (r) of the *Vital Statistics Act* is repealed and the following substituted: R.S.O. 1980,
c. 524

(r) “prescribed”, except in subsection 22 (2), means prescribed by the regulations.

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 1, is further amended by adding the following clause:

(sa) “regulations” means the regulations made under this Act.

2. Subsections 2 (2) and (3) of the Act are repealed and the following substituted:

(2) The Registrar General shall, upon receipt, cause the registrations of births, marriages, deaths, still-births, adoptions, divorces and changes of name occurring in Ontario and all other documents required or permitted to be given to the Registrar General to be numbered in separate series according to calendar year. Registrations
to be
numbered

(3) The Registrar General shall cause the registrations and other documents to be indexed separately according to calendar year. Indexed

(4) The Registrar General shall cause the registrations and other documents to be systematically filed. Filed

(5) Subject to section 3b, the Registrar General shall cause the registrations and other documents to be kept safely by administrative, physical and technological safeguards that are reasonable and are consistent with this Act. Safekeeping
of
registrations

3. Subsections 3 (2) and (3) of the Act are repealed and the following substituted:

Registration
not signed

(2) If a registration received from a division registrar is incomplete as to a required signature, the Registrar General shall cause the registration to be returned, in order that the signature may be obtained, to,

- (a) the proper division registrar; or
- (b) the person required to make the registration.

Classification
by causes of
death

(3) The Registrar General shall cause all deaths registered under this Act to be classified according to the classification of diseases adopted by reference in the regulations.

4. The Act is amended by adding the following sections:

Registrations
to be
recorded

3a.—(1) The Registrar General may cause the registrations and other documents referred to in subsection 2 (2), whether received before or after this section comes into force, to be accurately recorded by any technology, if an accurate and easily readable paper copy of the registration or other document can be made from the record.

Documents
to be
recorded

(2) The Registrar General may cause any other documents related to the registrations to be recorded as provided in subsection (1).

Notation
added
directly to
record

(3) The Registrar General may use the technology referred to in subsection (1) to add a notation or any other information directly to a record.

Application

(4) This Act applies with the necessary modifications that are consistent with this Act to the records made under this section.

Definitions
R.S.O. 1980,
c. 27

3b.—(1) In this section, “Archives” and “Archivist” have the same meaning as in the *Archives Act*.

Registrations
transferred to
Archives

(2) The Registrar General may cause those registrations and records that are prescribed, and related indices and documents, to be transferred to the Archives.

Authority of
Archivist

(3) The Archivist is authorized and directed to receive and maintain the registrations, records, indices and documents transferred under subsection (2) as if they were transferred under the *Archives Act*.

(4) Despite subsection (3), the Registrar General shall, for the purpose of administering this Act, have access to any registration, record, index or document that was transferred to the Archives.

Access by
Registrar
General

(5) The Registrar General and the Archivist are authorized to enter into agreements respecting any matter related to the registrations, records, indices and documents transferred under this section.

Agreements

5. Subsection 4 (2) of the Act is repealed and the following substituted:

(2) The Registrar General may appoint inspectors of vital statistics who shall perform the duties that are prescribed.

Inspectors

6. The Act is further amended by adding the following section:

4a.—(1) The Registrar General shall have a seal of office.

Seal of office

(2) The seal of office may be reproduced in any manner and has the same effect whether it is manually applied or otherwise reproduced.

Idem

7. Clause 11 (2) (a) of the Act is amended by striking out “subsection 6 (1)” in the last line and substituting “section 6”.

8. Subsection 14 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 4, is repealed and the following substituted:

(1) In the case of a still-birth in Ontario, the person who is required to certify a death under subsection 17 (2) shall complete, certify and deliver a statement in the prescribed form respecting the still-birth to the funeral director in charge of the body.

Statement re
still-births

9. Subsections 17 (3) and (4) of the Act are repealed and the following substituted:

(3) Subject to subsection (4), any legally qualified medical practitioner who has been in attendance during the last illness of a deceased person or who has sufficient knowledge of the last illness shall forthwith after the death complete and sign a medical certificate of death in the prescribed form, stating the cause of death according to the classification of diseases adopted by reference in the regulations, and shall deliver the medical certificate to the funeral director or other person in charge of the body.

Medical
certificate of
death

Coroner's
case
R.S.O. 1980,
c. 93

(4) In the case of a death of which the coroner is required to be notified under section 10 of the *Coroners Act*, the coroner notified shall, as soon as the cause of death is known, complete and sign a medical certificate of death in the prescribed form, stating the cause of death according to the classification of diseases adopted by reference in the regulations, and shall deliver the medical certificate to the funeral director or other person in charge of the body.

10. Section 29 of the Act is repealed.

11. Section 30 of the Act is amended by adding the following subsection:

Old
certificates to
be returned

(4a) Any person in possession or control of a certificate or certified copy of a registration issued before the registration was corrected shall return the certificate or certified copy to the Registrar General forthwith upon demand.

12. Section 31 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 7, is further amended by adding the following subsection:

Old
certificates to
be returned

(3a) Any person in possession or control of a certificate or certified copy of a birth registration issued before the registration was cancelled under subsection (1) shall return the certificate or certified copy to the Registrar General forthwith upon demand.

13. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 34, section 2, is further amended by adding the following subsection:

Old
certificates to
be returned

(4a) Any person in possession or control of a certificate or certified copy of a birth registration issued before the making of a notation under subsection (4) shall return the certificate or certified copy to the Registrar General forthwith upon demand.

14. Clause 35 (i) of the Act is repealed and the following substituted:

- (i) call attention to any errors in a statement of personal particulars or medical certificate of death that is incomplete or unsatisfactory, and withhold the issuance of the acknowledgment of registration of death and the burial permit until the errors have been corrected.

15. Section 42 of the Act is repealed and the following substituted:

42.—(1) A certificate purporting to be issued under section 40 or a certified copy of a registration purporting to be issued under section 41 signed by the Registrar General or Deputy Registrar General or on which the signature of either of them is reproduced by any method is admissible in any court in Ontario as proof, in the absence of evidence to the contrary, of the facts so certified, and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed.

Admissibility
of certi-
ficates, etc.

(2) Subsection (1) applies to a certificate or certified copy of a registration produced from a record of the registration made under section 3a.

Idem, made
from record

(3) The paper copy made from the record of a document, other than a registration, that is made under section 3a is admissible in evidence to the same extent as an original document.

Admissibility
of paper
copy of a
record

16. Subsection 44 (2) of the Act is repealed.

17. Subsection 44 (3) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 9, section 11, is amended by striking out “or (2)” in the second line.

18. Section 48 of the Act is repealed and the following substituted:

48.—(1) The Registrar General, if satisfied that a registration was fraudulently or improperly obtained, may order that the registration be cancelled and may order the return of any certificate or certified copy of a registration that was issued before the registration was cancelled.

Registration
unlawfully
obtained

(2) The Registrar General shall cause the order to be affixed to the cancelled registration and, if satisfied as to the correctness and sufficiency of new evidence presented to him or her, may cause a new registration to be made.

New
registration

(3) The Registrar General, if satisfied that a certificate or certified copy of a registration was obtained or used for fraudulent or improper purposes, may order the return of the certificate or certified copy.

Certificate or
certified copy
used
improperly

(4) Any person in possession or control of a certificate or certified copy of a registration that is the subject of an order

Certificates
or certified
copies to be
returned

under subsection (1) or (3) shall return it to the Registrar General forthwith.

Requirement
re hearing

(5) Before making an order under subsection (1) or (3), the Registrar General shall give to such interested parties as the Registrar General considers proper an opportunity to be heard on the matter.

19. Section 55 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 17 and 1987, chapter 4, section 13, is further amended by adding the following clauses:

- (w) adopting by reference, in whole or in part, and with changes that the Lieutenant Governor in Council considers necessary, any classification of diseases for the purposes of this Act;
- (x) prescribing registrations and records to be transferred under section 3b (transfer to the Archives of Ontario).

Commence-
ment

20. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

21. The short title of this Act is the *Vital Statistics Amendment Act, 1990*.

Bill 150

(Chapter 12
Statutes of Ontario, 1990)

An Act to amend the Vital Statistics Act

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations



<i>1st Reading</i>	April 18th, 1990
<i>2nd Reading</i>	June 27th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 150

1990

An Act to amend the Vital Statistics Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (r) of the *Vital Statistics Act* is repealed and the following substituted: R.S.O. 1980,
c. 524

(r) “prescribed”, except in subsection 22 (2), means prescribed by the regulations.

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 1, is further amended by adding the following clause:

(sa) “regulations” means the regulations made under this Act.

2. Subsections 2 (2) and (3) of the Act are repealed and the following substituted:

(2) The Registrar General shall, upon receipt, cause the registrations of births, marriages, deaths, still-births, adoptions, divorces and changes of name occurring in Ontario and all other documents required or permitted to be given to the Registrar General to be numbered in separate series according to calendar year. Registrations
to be
numbered

(3) The Registrar General shall cause the registrations and other documents to be indexed separately according to calendar year. Indexed

(4) The Registrar General shall cause the registrations and other documents to be systematically filed. Filed

(5) Subject to section 3b, the Registrar General shall cause the registrations and other documents to be kept safely by administrative, physical and technological safeguards that are reasonable and are consistent with this Act. Safekeeping
of
registrations

3. Subsections 3 (2) and (3) of the Act are repealed and the following substituted:

Registration
not signed

(2) If a registration received from a division registrar is incomplete as to a required signature, the Registrar General shall cause the registration to be returned, in order that the signature may be obtained, to,

(a) the proper division registrar; or

(b) the person required to make the registration.

Classification
by causes of
death

(3) The Registrar General shall cause all deaths registered under this Act to be classified according to the classification of diseases adopted by reference in the regulations.

4. The Act is amended by adding the following sections:

Registrations
to be
recorded

3a.—(1) The Registrar General may cause the registrations and other documents referred to in subsection 2 (2), whether received before or after this section comes into force, to be accurately recorded by any technology, if an accurate and easily readable paper copy of the registration or other document can be made from the record.

Documents
to be
recorded

(2) The Registrar General may cause any other documents related to the registrations to be recorded as provided in subsection (1).

Notation
added
directly to
record

(3) The Registrar General may use the technology referred to in subsection (1) to add a notation or any other information directly to a record.

Application

(4) This Act applies with the necessary modifications that are consistent with this Act to the records made under this section.

Definitions
R.S.O. 1980,
c. 27

3b.—(1) In this section, “Archives” and “Archivist” have the same meaning as in the *Archives Act*.

Registrations
transferred to
Archives

(2) The Registrar General may cause those registrations and records that are prescribed, and related indexes and documents, to be transferred to the Archives.

Authority of
Archivist

(3) The Archivist is authorized and directed to receive and maintain the registrations, records, indexes and documents transferred under subsection (2) as if they were transferred under the *Archives Act*.

(4) Despite subsection (3), the Registrar General shall, for the purpose of administering this Act, have access to any registration, record, index or document that was transferred to the Archives.

Access by
Registrar
General

(5) The Registrar General and the Archivist are authorized to enter into agreements respecting any matter related to the registrations, records, indexes and documents transferred under this section.

Agreements

5. Subsection 4 (2) of the Act is repealed and the following substituted:

(2) The Registrar General may appoint inspectors of vital statistics who shall perform the duties that are prescribed.

Inspectors

6. The Act is further amended by adding the following section:

4a.—(1) The Registrar General shall have a seal of office.

Seal of office

(2) The seal of office may be reproduced in any manner and has the same effect whether it is manually applied or otherwise reproduced.

Idem

7. Clause 11 (2) (a) of the Act is amended by striking out “subsection 6 (1)” in the last line and substituting “section 6”.

8. Subsection 14 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 4, is repealed and the following substituted:

(1) In the case of a still-birth in Ontario, the person who is required to certify a death under subsection 17 (2) shall complete, certify and deliver a statement in the prescribed form respecting the still-birth to the funeral director in charge of the body.

Statement re
still-births

9. Subsections 17 (3) and (4) of the Act are repealed and the following substituted:

(3) Subject to subsection (4), any legally qualified medical practitioner who has been in attendance during the last illness of a deceased person or who has sufficient knowledge of the last illness shall forthwith after the death complete and sign a medical certificate of death in the prescribed form, stating the cause of death according to the classification of diseases adopted by reference in the regulations, and shall deliver the medical certificate to the funeral director or other person in charge of the body.

Medical
certificate of
death

Coroner's
case
R.S.O. 1980,
c. 93

(4) In the case of a death of which the coroner is required to be notified under section 10 of the *Coroners Act*, the coroner notified shall, as soon as the cause of death is known, complete and sign a medical certificate of death in the prescribed form, stating the cause of death according to the classification of diseases adopted by reference in the regulations, and shall deliver the medical certificate to the funeral director or other person in charge of the body.

10. Section 29 of the Act is repealed.

11. Section 30 of the Act is amended by adding the following subsection:

Old
certificates to
be returned

(4a) Any person in possession or control of a certificate or certified copy of a registration issued before the registration was corrected shall return the certificate or certified copy to the Registrar General forthwith upon demand.

12. Section 31 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 7, is further amended by adding the following subsection:

Old
certificates to
be returned

(3a) Any person in possession or control of a certificate or certified copy of a birth registration issued before the registration was cancelled under subsection (1) shall return the certificate or certified copy to the Registrar General forthwith upon demand.

13. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 34, section 2, is further amended by adding the following subsection:

Old
certificates to
be returned

(4a) Any person in possession or control of a certificate or certified copy of a birth registration issued before the making of a notation under subsection (4) shall return the certificate or certified copy to the Registrar General forthwith upon demand.

14. Clause 35 (i) of the Act is repealed and the following substituted:

- (i) call attention to any errors in a statement of personal particulars or medical certificate of death that is incomplete or unsatisfactory, and withhold the issuance of the acknowledgment of registration of death and the burial permit until the errors have been corrected.

15. Section 42 of the Act is repealed and the following substituted:

42.—(1) A certificate purporting to be issued under section 40 or a certified copy of a registration purporting to be issued under section 41 signed by the Registrar General or Deputy Registrar General or on which the signature of either of them is reproduced by any method is admissible in any court in Ontario as proof, in the absence of evidence to the contrary, of the facts so certified, and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed.

Admissibility of certificates, etc.

(2) Subsection (1) applies to a certificate or certified copy of a registration produced from a record of the registration made under section 3a.

Idem, made from record

(3) The paper copy made from the record of a document, other than a registration, that is made under section 3a is admissible in evidence to the same extent as an original document.

Admissibility of paper copy of a record

16. Subsection 44 (2) of the Act is repealed.

17. Subsection 44 (3) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 9, section 11, is amended by striking out “or (2)” in the second line.

18. Section 48 of the Act is repealed and the following substituted:

48.—(1) The Registrar General, if satisfied that a registration was fraudulently or improperly obtained, may order that the registration be cancelled and may order the return of any certificate or certified copy of a registration that was issued before the registration was cancelled.

Registration unlawfully obtained

(2) The Registrar General shall cause the order to be affixed to the cancelled registration and, if satisfied as to the correctness and sufficiency of new evidence presented to him or her, may cause a new registration to be made.

New registration

(3) The Registrar General, if satisfied that a certificate or certified copy of a registration was obtained or used for fraudulent or improper purposes, may order the return of the certificate or certified copy.

Certificate or certified copy used improperly

(4) Any person in possession or control of a certificate or certified copy of a registration that is the subject of an order

Certificates or certified copies to be returned

under subsection (1) or (3) shall return it to the Registrar General forthwith.

Requirement
re hearing

(5) Before making an order under subsection (1) or (3), the Registrar General shall give to such interested parties as the Registrar General considers proper an opportunity to be heard on the matter.

19. Section 55 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 17 and 1987, chapter 4, section 13, is further amended by adding the following clauses:

- (w) adopting by reference, in whole or in part, and with changes that the Lieutenant Governor in Council considers necessary, any classification of diseases for the purposes of this Act;
- (x) prescribing registrations and records to be transferred under section 3b (transfer to the Archives of Ontario).

Commence-
ment

20. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

21. The short title of this Act is the *Vital Statistics Amendment Act, 1990*.

Bill 151

An Act to relieve Persons from Liability in respect of voluntary Emergency Medical and First Aid Services

Mr. Haggerty



1st Reading April 18th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

Bill 151

1990

**An Act to relieve Persons from Liability
in respect of voluntary Emergency Medical and
First Aid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“physician” means a person licensed to practice medicine under Part III of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“registered nurse” means a person who is the holder of a certificate as a registered nurse issued under Part IV of the *Health Disciplines Act*.

2. A physician, registered nurse or other person is not liable for damages for injury to or the death of a person who is ill, injured or unconscious as the result of an accident or other emergency if the injury or death is alleged to have been caused by an act or omission of the physician, registered nurse or other person in rendering the medical services or first aid assistance in the following circumstances:

Relief from
liability for
damages

1. The physician or registered nurse voluntarily and without expectation of compensation or reward rendered emergency medical services or first aid assistance and the services or assistance were not rendered at a hospital or other place having adequate medical facilities and equipment.
2. The other person voluntarily rendered emergency first aid assistance and the assistance was rendered at the immediate scene of the accident or emergency.

3.—(1) Section 2 does not relieve a physician, registered nurse or other person from liability if the injury or death is

Act does not
apply to
gross
negligence

caused by the gross negligence of the physician, registered nurse or other person.

Act does not
apply to
normal
medical
services

(2) Section 2 does not relieve a physician from liability if the injury or death is caused by an act or omission on the part of the physician in respect of medical services rendered by him or her in the normal and ordinary course of his or her practice and not under the circumstances set out in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Good Samaritan Act, 1990*.

2ND SESSION, 34TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 152

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. J. Sweeney
Minister of Municipal Affairs



1st Reading April 19th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 55 of the *Municipal Act* is re-enacted to require that meetings of municipal councils, local boards and their committees be open to the public unless a subject-matter described in subsection 55 (4) is being discussed. The section also requires that records relating to real property that has been acquired by a municipality or local board be available for public inspection.

The new section 55a would require every municipality and local board to enact a procedure by-law governing the proceedings of meetings, the conduct of members and the calling of meetings including meetings of a committee of council or of a local board.

SECTIONS 2 and 3. Consequential amendments are made to the *Municipal Act* as a result of the new section 55a.

SECTION 4. Section 195 of the *Municipal Act* is re-enacted to require every council and local board to establish by by-law procedures governing the sale of property. Public notice of a proposed sale is required. The property must be declared surplus and at least one appraisal of the fair market value of the property must be obtained. The records relating to real property that has been declared surplus are to be made available for public inspection.

The new section 195a would give Her Majesty in right of Ontario, or a designate of Her Majesty, the right to purchase lands declared surplus by prescribed municipalities or local boards for housing purposes.

SECTIONS 5 to 17. Section 55a of the *Municipal Act* (requiring a procedure by-law) is made applicable to the council of every regional, district and metropolitan municipality and the County of Oxford and their local boards.

Bill 152

1990

**An Act to amend the Municipal Act and
certain other Acts
related to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 55 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

55.—(1) In this section and section 55a, “local board” means a local board as defined in the *Municipal Affairs Act*, except boards of commissioners of police, library boards and school boards.

Definition
R.S.O. 1980,
c. 303

(2) Subject to subsection (4), the meetings of a council, a local board and a committee of a council or local board shall be open to the public if any decision is being made or recommendation being considered and no person shall be excluded from a meeting except for improper conduct.

Open
meetings

(3) The head or other presiding officer may expel from a meeting any person who has been guilty of improper conduct at the meeting.

Exclusion of
certain
persons

(4) A special meeting of a council or local board and a meeting of a committee of a council or local board may be closed to the public if the subject-matter being considered relates to,

Closed
meetings

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition of real property for municipal or local board purposes;

- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation affecting the municipality or local board; or
- (f) matters under the *Municipal Boundary Negotiations Act, 1981* or annexation of unorganized territory.

Idem

(5) If a special or committee meeting is closed to the public, the clerk of the municipality or the recording official of the local board, as the case may be, shall record in the minutes of the next regular meeting the holding of the closed meeting and the matter in subsection (4) being considered which resulted in the closed meeting.

Inspection of documents relating to land purchase

(6) Any person may inspect records, accounts and documents relating to real property that has been acquired by a municipality or local board including inter-departmental correspondence and reports of officials and solicitors of the municipality or local board.

Copies

(7) The municipality or local board shall, upon request, furnish copies of a record, account or document mentioned in subsection (6) upon payment of the fee normally charged by the municipality or local board for making copies.

Procedure by-law

55a.—(1) Every council and local board shall enact a procedure by-law for governing the proceedings of meetings, the conduct of members and the calling of meetings of the council and its committees and of the local board and its committees, respectively.

Copy of procedure by-law to members

(2) The clerk of a municipality or the administrative head of the local board shall provide to each member of the council or local board and to each member of a committee of the council or local board a copy of the procedure by-law when the member of council makes the declaration of office or the member of a local board or committee is sworn into office or appointed to a committee.

2. Section 58 of the said Act is repealed and the following substituted therefor:

Place of special meeting

58. If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the last meeting was held.

3. Section 104 of the said Act is repealed and the following substituted therefor:

104. Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law.

General
power to
make
regulations

4. Section 195 of the said Act is repealed and the following substituted therefor:

195.—(1) In this section, “local board” means a local board as defined in the *Municipal Affairs Act*, except school boards.

Definition
R.S.O. 1980,
c. 303

(2) Subject to subsections (3) to (8), the determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation that the council may lawfully sell, shall be sold, is not open to question or review by any court, if the purchaser is a person who may lawfully buy and the council acted in good faith.

Sale of land
by council
not open to
question

(3) Subsections (4) to (8) and any procedures set out in a by-law passed under subsection (4) do not apply to,

Non-
application
to certain
property

(a) the sale of property under sections 112a and 113 and subsection 316 (2);

(b) the sale of property under section 44 of the *Expropriations Act* to an owner from whom the land was taken;

R.S.O. 1980,
c. 148

(c) the sale of property to a local, county, metropolitan, regional or district municipality, the County of Oxford, a local board, school board, or a provincial or federal government or its agencies; or

(d) the sale of real property to a purchaser designated under subsection 195a (2).

(4) Every council and local board shall by by-law establish procedures governing the sale of property by public tender, public auction or otherwise as the council or local board considers is in the best interests of the public.

By-laws
respecting
sale of
property

(5) A by-law under subsection (4) shall provide for public notice of a proposed sale and an opportunity for any person to make representations to the council or local board respecting the proposed sale.

Public notice
requirement

Copy of
by-law to be
given to
members

(6) The clerk of the municipality or the administrative head of the local board shall provide to each member of the council or local board a copy of the by-law when the member of council makes the declaration of office or the member of the local board is sworn into office.

Sale of
surplus real
property

(7) Before selling any real property, every council and local board shall,

(a) by by-law, or in the case of a local board, by by-law or resolution, declare the property to be surplus and no longer required for its purposes; and

(b) obtain at least one appraisal of the fair market value of the property from an accredited appraiser.

Inspection of
documents
relating to
surplus land

(8) Any person may inspect the records containing the description of real property declared surplus under clause (7) (a).

Copies

(9) The municipality or local board shall, upon request, furnish copies of a record mentioned in subsection (8) upon payment of the fee normally charged by the municipality or local board for making copies.

Surplus real
property

195a.—(1) Notwithstanding this or any other Act, a prescribed municipality or local board that intends to sell surplus real property shall notify Her Majesty in right of Ontario of its intention.

Purchase by
province or
designate

(2) Upon receipt of the notice under subsection (1), Her Majesty in right of Ontario may, within the prescribed period, inform the clerk of the municipality or administrative head of the local board that it wishes to buy or designate a purchaser to buy the property for housing purposes.

Time
restriction

(3) If Her Majesty in right of Ontario does not inform the clerk or administrative head within the prescribed period, the municipality or local board may offer to sell the land to any person.

Right to
purchase

(4) If Her Majesty in Right of Ontario informs the clerk that it wishes to buy the land or designates a purchaser to buy the land for housing purposes, Her Majesty or the designated purchaser may, within a prescribed period, enter an agreement to purchase the property at fair market value or at any other price agreed upon between the municipality or local board and the purchaser.

(5) The time period prescribed under subsection (4) may be extended by agreement of the parties to the purchase agreement. Extension of time

(6) If Her Majesty in right of Ontario or the designated purchaser does not enter an agreement within the period prescribed under subsection (4) or extended by agreement under subsection (5), the municipality or local board may offer to sell the land to any person. Where no agreement reached

(7) This section does not apply to the sale of real property, Exclusions

(a) under section 113;

(b) under subsection 316 (2) where an abutting owner exercises a right of purchase; or

(c) under section 44 of the *Expropriations Act* to an owner from whom the land was taken. R.S.O. 1980, c. 148

(8) The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing local boards and municipalities, including metropolitan, regional and district municipalities and the County of Oxford to which this section applies;

(b) prescribing the manner in which a purchaser shall be designated under subsection (2); and

(c) prescribing the time periods for the purposes of this section.

5.—(1) Section 12 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 15 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 65, section 1, is further amended by inserting after “55” in the first line “55a”.

6.—(1) Section 14 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 17 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 4, is further amended by inserting after “55” in the first line “55a”.

7.—(1) Section 15 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 18 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 66, section 2, is further amended by inserting after “55” in the first line “55a”.

8.—(1) Section 14 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 17 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 1, is further amended by inserting after “55” in the first line “55a”.

9.—(1) Section 14 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 17 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 8, is further amended by inserting after “55” in the first line “55a”.

10.—(1) Section 14 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 17 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 14, is further amended by inserting after “55” in the first line “55a”.

11.—(1) Section 13 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 20, is further amended by inserting after “55” in the first line “55a”.

12.—(1) Section 13 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 27, is further amended by inserting after “55” in the first line “55a”.

13.—(1) Section 17 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 20 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 33, is further amended by inserting after “55” in the first line “55a”.

14.—(1) Section 14 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 17 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 37, is further amended by inserting after “55” in the first line “55a”.

15.—(1) Section 13 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 43, is further amended by inserting after “55” in the first line “55a”.

16.—(1) Section 13 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed.

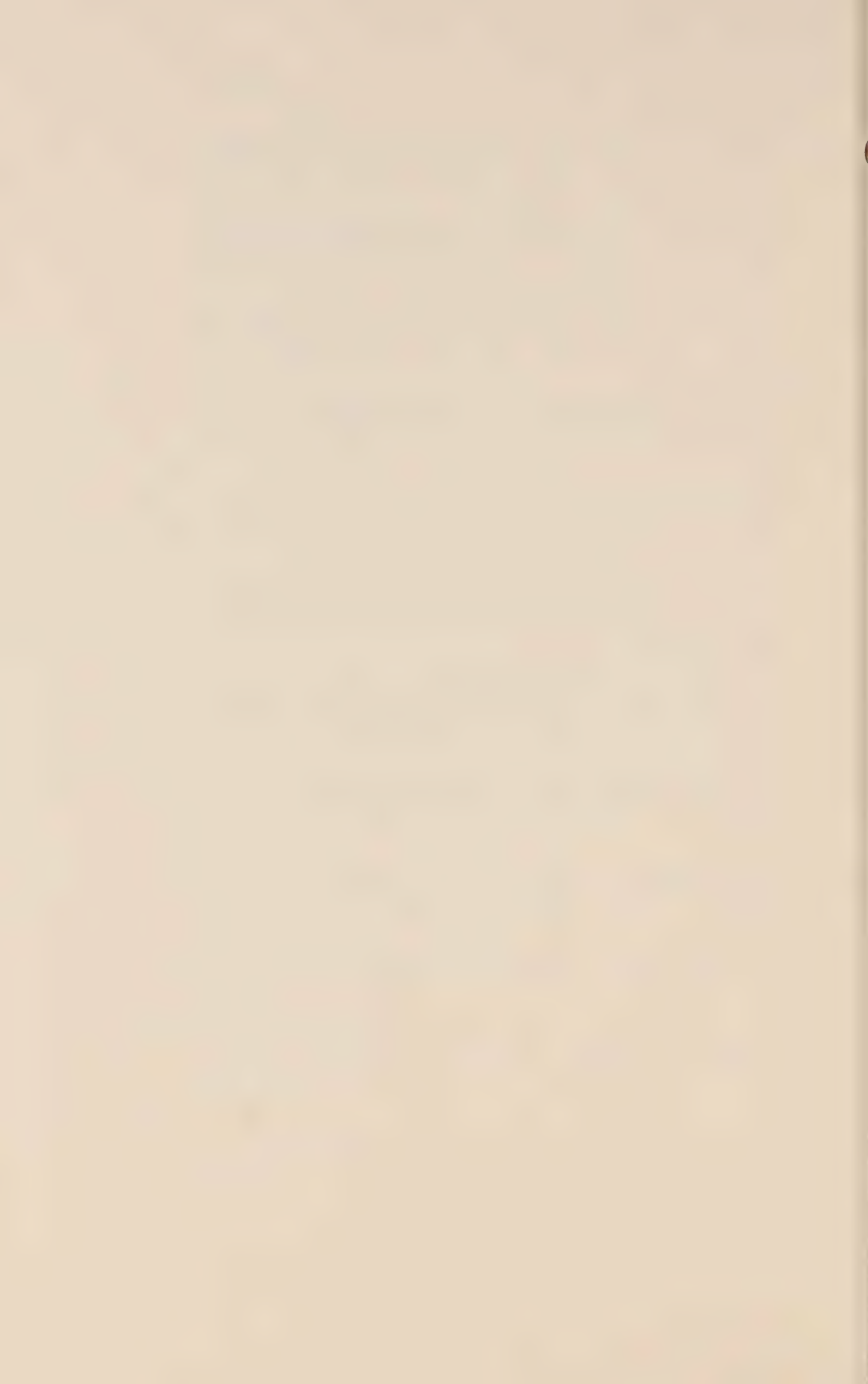
(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 51, is further amended by inserting after “55” in the first line “55a”.

17.—(1) Section 13 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 72, section 56, is further amended by inserting after “55” in the first line “55a”.

18. This Act comes into force on the day it receives Royal Assent. Commence-
ment

19. The short title of this Act is the *Municipal Statute Law Amendment Act, 1990*. Short title



Bill 153

An Act to amend the Public Lands Act

Mr. Haggerty



1st Reading April 19th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to limit leases of public lands to ten-year terms, to prohibit the leasing of public lands to persons who are not Canadian citizens or corporations that are not Canadian controlled and to prohibit leases of public lands that would restrict local residents' access to a body of water.

Bill 153

1990

An Act to amend the Public Lands Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Lands Act* is amended by adding the following section: R.S.O. 1980,
c. 413

15a.—(1) No public lands shall be leased for a term of more than ten years. Prohibited
leases

(2) No public lands shall be leased to a person who is not a Canadian citizen or to a corporation that is controlled directly or indirectly by persons who are not Canadian citizens. Idem

(3) No public lands shall be leased if the lease would interfere with or restrict access to a body of water by persons resident in the vicinity of the body of water. Idem

(4) Subsections (1), (2) and (3) apply to leases entered into on or after the day this section comes into force. Application

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Public Lands Amendment Act, 1990*. Short title

Bill 154

An Act respecting the Rights of Non-Unionized Workers

Mr. Haggerty



1st Reading April 19th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide a low cost mechanism by which a non-unionized worker may obtain a review by the Ontario Labour Relations Board if the worker is discharged or otherwise disciplined for cause. At the present time, a non-unionized worker who is dismissed or otherwise disciplined for cause may have no right of action against his or her employer despite the fact that the discipline is, having regard to all of the circumstances, unduly harsh.

The Bill provides a two stage process for reviewing complaints involving unduly harsh discipline. Initially, a labour relations officer would be appointed to effect a settlement that would be reduced to writing and that would have to be complied with according to its terms. Then, if no settlement is reached, or if settlement is not likely, the Ontario Labour Relations Board would inquire into the matter. The Board, if satisfied that the complaint is justified, would have the power to make an order substituting such penalty as is just and reasonable in the circumstances.

Bill 154

1990

An Act respecting the Rights of Non-Unionized Workers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “Board” means the Ontario Labour Relations Board. Definition

2.—(1) An employee may file a complaint with the Board if, Complaint to
O.L.R.B.

(a) the employee has been discharged or otherwise disciplined for cause by his or her employer and is of the opinion that the penalty is unduly harsh; and

(b) the employee’s contract of employment is not governed by a collective agreement under the *Labour Relations Act*. R.S.O. 1980,
c. 228

(2) The rules governing the practice and procedure of the Board apply with necessary modifications to a review under subsection 3 (2) and to the complaint. Procedure

(3) The Board may authorize a labour relations officer to inquire into the complaint. Inquiry by
labour
relations
officer

(4) The labour relations officer shall forthwith inquire into the complaint and attempt to effect a settlement of the matter. Duties

(5) The labour relations officer shall report the results of his or her inquiry to the Board. Report

(6) If a labour relations officer is unable to effect a settlement of the complaint or if the Board in its discretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint and if the Board is satisfied that the discharge or other discipline Remedy

imposed was unduly harsh, the Board may by order substitute such other penalty for the discharge or other discipline as to the Board seems just and reasonable in all the circumstances.

Idem

(7) Without limiting the generality of subsection (6),

- (a) if an employee has been discharged, the Board, in an order made under subsection (6), may order that the employee be reinstated in employment, with or without compensation or that the employee be compensated in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer;
- (b) if an employee has been suspended, the Board, in an order made under subsection (6), may order that the employee be compensated for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer.

Effect of
settlement

3.—(1) If the complaint is settled, whether through an inquiry of a labour relations officer or otherwise, and the terms of the settlement are put in writing and signed by the employer or a representative of the employer and by the employee, the settlement is binding upon the employer and the employee and shall be complied with according to its terms.

Review of
settlement

(2) An employer or employee who alleges that the other party has breached a term of a settlement referred to in subsection (1) may apply to the Board for a review of the matter and the Board, after an inquiry,

- (a) may order that the employee or employer comply with the terms of the settlement; or
- (b) may vary the terms of the settlement and order compliance with the terms of the settlement as varied.

Enforcement
of orders

4.—(1) If the employer or the employee fails to comply with a term of an order made under subsection 2 (6) or 3 (2), the other party may, after the expiration of fourteen days from the date of the order or the date provided in the order for compliance, whichever is later, notify the Board in writing of the failure to comply.

Idem

(2) Upon being notified under subsection (1), the Board shall file in the office of the Registrar of the Supreme Court a copy of the order, exclusive of the reasons therefor, if any,

and the order shall be entered in the same way as a judgment or order of that court and is enforceable as such.

5. The rights conferred by this Act are in addition to any other rights that an employee may have at law but, if an employee files a complaint under this Act, any action brought by the employee in a court of law related to the discharge or discipline of the employee may be stayed pending the disposition of the matter by the Board. No derogation of rights

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Non-Unionized Workers Protection Act, 1990*. Short title

Bill 155

An Act to amend certain Acts respecting Insurance

The Hon. R. Nixon
Minister of Financial Institutions



1st Reading June 13th, 1988
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The purposes of the Bill are to strengthen the regulatory system governing insurers in Ontario; to augment the means of enforcing the *Insurance Act*; to increase consumer protection respecting automobile insurance; and, to permit the naming of persons as "excluded drivers" under contracts of automobile insurance.

The Bill also removes the exception under the *Human Rights Code, 1981* that had permitted insurers to discriminate in certain circumstances with respect to contracts of automobile insurance.

Some administrative provisions of the *Insurance Act* are updated.

The principal provisions of the Bill are as follows:

SECTIONS 1 to 4, 7, 13, 15 and 27. Among the administrative changes made in order to update the *Insurance Act* are the appointment and powers of the Superintendent and deputy superintendents of insurance, the protection of Crown employees from liability in civil proceedings, and record-keeping requirements for the Superintendent. Changes to the regulation-making powers of the Lieutenant Governor in Council are complementary to other amendments to the Act.

SECTIONS 2, 8, 10, 14 and 30. Comprehensive powers to enforce the *Insurance Act* are consolidated in a new Part XX of the Act. An offence is created respecting the obstruction of examinations made under the Act. Some existing offence provisions in the Act are clarified. Auditors and other professional advisors of insurers are required to report offences under the Act. Increased penalties are provided, and the limitation period for legal proceedings under the Act is extended.

SECTIONS 5, 6 and 8. Among the administrative provisions made in order to streamline enforcement of the *Insurance Act* are authorization to the Superintendent to issue certificates that may be used in evidence in legal proceedings, and provisions governing service of documents.

SECTIONS 8, 11, 12, 29 and 30. The regulatory system is strengthened. The Superintendent is empowered to collect information from insurers through annual and interim returns filed by insurers, to make specific inquiries to, and periodically to examine the condition of affairs of, insurers. The powers of persons conducting examinations under the Act are set out. The duty to furnish information is clarified. The Superintendent may issue compliance orders.

SECTIONS 9, 18 to 21, 28 and subsections 31 (3) and (4). Consumer protection measures respecting automobile insurance are augmented. The Superintendent is authorized to publish information about insurers that is in the public interest. Insurers are required to supply prescribed information to applicants for insurance and to insured persons. Deadlines for paying medical and accident benefits under Schedule C of the *Insurance Act* are established. The category of "unfair acts and practices" by insurers is expanded.

SECTIONS 16, 17, 22 to 26, subsections 31 (1) and (2) and sections 32 and 34. Provision is made for an endorsement to a contract of automobile insurance naming an "excluded driver". If an excluded driver drives an automobile that is otherwise insured under the contract, the automobile is no longer insured, and persons otherwise insured under the contract are no longer insured, although they are entitled to medical and accident benefits under Schedule C to the *Insurance Act*. Amendments to the *Compulsory Automobile Insurance Act* and the *Motor Vehicle Accident Claims Act* are complementary.

SECTION 33 and subsection 35 (4). Insurers are no longer permitted to discriminate on the grounds set out in the *Human Rights Code, 1981* in connection with contracts of automobile insurance. The amendment to the *Ontario Automobile Insurance Board Act, 1988* is complementary.

SECTION 35. The Ontario Automobile Insurance Board is empowered to collect statistical information respecting automobile insurance from insurers, insurers' associations and the Facility Association.

Bill 155

1989

An Act to amend certain Acts respecting Insurance

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 39 of section 1 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

39. “Minister” means the Minister of Financial Institutions or other such member of the Executive Council to whom the administration of this Act may be assigned.

(2) Paragraph 62 of section 1 of the said Act is repealed and the following substituted therefor:

62. “Superintendent” means the Superintendent of Insurance.

2. Sections 2 and 3 of the said Act are repealed and the following substituted therefor:

2.—(1) The Lieutenant Governor in Council shall appoint a Superintendent of Insurance who shall carry out the duties and exercise the powers of the Superintendent under this Act and every other Act that assigns duties to or confers powers on the Superintendent. Superintendent

(2) The Lieutenant Governor in Council may appoint one or more deputy superintendents of insurance to perform such duties and exercise such powers of the Superintendent at such times and in such manner as the Lieutenant Governor in Council may order. Deputy superintendent

3.—(1) For the purpose of exercising the powers and performing the duties of the Superintendent under this Act or any other Act, the Superintendent has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce Powers to summon witnesses and require production

documents, records and things, as is vested in the Supreme Court for the trial of civil actions.

Power to
require
evidence

(2) In pursuance of the Superintendent's duties, the Superintendent may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Employment
of stenog-
rapher

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer who has taken an oath before the Superintendent to report faithfully the same.

3. Subsection 6 (1) of the said Act is repealed and the following substituted therefor:

Protection
from
personal
liability

(1) No action or other proceeding for damages shall be instituted against the Superintendent, any officer or employee of the Crown acting under the authority of the Superintendent, or any person appointed under this Act, for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
liability
R.S.O. 1980,
c. 393

(1a) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

4. The said Act is amended by adding thereto the following section:

Records

7a. Records required by this Act to be prepared and maintained by the Superintendent may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

5. Subsections 8 (2) and (3) of the said Act are repealed and the following substituted therefor:

Superin-
tendent may
issue
certificate

(2) The Superintendent may issue a certificate,

- (a) stating that on a stated day a person was or was not licensed under this Act, or that the licence was renewed, suspended, revived, revoked or cancelled on a stated day;

- (b) stating that a copy of, or extract from, a document or thing in the custody of the Superintendent is a true copy of, or extract from, the original;
- (c) stating the amount payable to the Treasurer of Ontario under subsection 15 (2) or (3);
- (d) stating the amount payable for an audit under subsection 80 (3);
- (e) stating whether a document was served or delivered under this Act or the regulations;
- (f) stating whether any document required by this Act or the regulations was filed;
- (g) stating whether a document or notification was received or issued by the Superintendent under this Act or the regulations;
- (h) giving particulars of the custody of any book, record, document or thing.

6. The said Act is further amended by adding thereto the following section:

8a.—(1) In this section, “official document” means a certificate, licence, order, decision, direction, inquiry or notice under this Act or the regulations. Definition

(2) An official document that purports to be signed by the Superintendent shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or the position of the person appearing to have signed the official document. Official documents as evidence

(3) A true copy certified by the Superintendent under clause 8 (2) (b) is admissible in evidence to the same extent as, and has the same evidentiary value as the document or thing of which it is a copy. True copies as evidence

7. Subsection 10 (3) of the said Act is repealed.

8. Sections 11, 12, 13, 14 and 15 of the said Act are repealed and the following substituted therefor:

11.—(1) An applicant for a licence under this Act or any person who is affected by an order, direction, decision or other requirement of the Minister or the Superintendent and Appeal

disagrees with it may appeal the decision to the Divisional Court.

Orders, etc.,
not stayed

(2) An appeal to the Divisional Court from an order, direction, decision or other requirement of the Minister or the Superintendent under this Act or the regulations and any further appeal in the matter does not stay the order, direction, decision or requirement.

Court may
grant stay

(3) Notwithstanding subsection (2), a judge of the court to which an appeal has been taken may grant a stay until the disposition of the appeal.

Inquiries

12. The Superintendent may direct to an insurer any inquiry related to the contracts, financial affairs or the acts and practices of the insurer, and the insurer shall answer promptly, explicitly and completely.

Right of
access

13. The Superintendent or a person designated by the Superintendent may at any reasonable time examine the books, securities, documents and things related to the contracts, financial affairs and acts and practices of an insurer, agent or broker.

Duty to
furnish
information
on request

14.—(1) Persons who are licensed under this Act, and officers and agents of an insurer shall furnish the Superintendent on request with full information,

- (a) relating to any contract of insurance issued by an insurer;
- (b) relating to any settlement or adjustment under a contract of insurance; or
- (c) respecting any activities related to the business of insurance.

Idem

(2) Insured persons shall furnish the Superintendent on request with full information relating to any contract of insurance issued to the insured person or to any settlement or adjustment affecting the insured person under a contract of insurance.

Examination
of insurers

15.—(1) Once each year or more frequently as the Superintendent may consider appropriate for all insurers or for a particular insurer, the Superintendent or a person appointed by the Superintendent,

- (a) shall examine an insurer's statement made under section 81;

- (b) may make such inquiries as are necessary to ascertain the insurer's condition and ability to meet its obligations as and when they become due; and
- (c) may make such inquiries as are necessary to ascertain whether the insurer has complied with the requirements of this Act applicable to its transactions.

(2) Subsection (1) does not apply so as to require an examination of an insurer, Exception

- (a) that is a mutual benefit society with fewer than 300 members; or
- (b) in respect of which the Superintendent adopts an examination by another government.

(3) The Superintendent may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets and liabilities of an insurer and the insurer shall pay the Treasurer of Ontario for the cost of the preparation of the abstracts or the valuation upon receiving a certificate of the Superintendent stating the amount payable. Preparation of abstracts, valuation

(4) Where the office of an insurer at which an examination is made under this section is outside Ontario, the insurer shall pay the Treasurer of Ontario for the cost of the examination upon receiving a certificate of the Superintendent stating the amount payable. Expenses of examination

15a.—(1) Service of any document for any purpose of this Act, where the method is not otherwise specified, may be made, Service of documents

- (a) on any person, by personal service on the person to be served;
- (b) on an insurer, by first class registered mail addressed to the insurer or its chief executive officer at the insurer's head office in Ontario as identified in the records of the Superintendent;
- (c) on a person who is not an insurer, by first class registered mail addressed to the person's last known address; or
- (d) on any person, by leaving a copy of the document with the solicitor, if any, of the person to be served, or with an employee in the solicitor's office.

Service at
place of
residence

(2) Where an attempt is made to effect personal service at a person's place of residence and for any reason personal service cannot be effected, the document may be served by,

(a) leaving a copy, in a sealed envelope addressed to the person, at the place of residence with anyone who appears to be an adult member of the same household; and

(b) on the same day or the following day, mailing another copy of the document to the person at the place of residence.

Effective
date of
service

(3) Service at a person's place of residence under subsection (2) is effective on the fifth day after the document is mailed.

Requirements
for service by
mail

(4) Service by first class registered mail is not effective unless a post office receipt for the mail bearing a signature that purports to be the signature of the person to be served or of an officer of an insurer is received by the sender.

Effective
date of
service by
mail

(5) Service by first class registered mail is effective on the date on which the sender of the mail receives the receipt described in subsection (4).

Acceptance
of service by
a solicitor

(6) Service on a solicitor is not effective unless the solicitor endorses on the document or a copy of it an acceptance of service on behalf of his or her client and the date of the acceptance.

Deemed
service

15b.—(1) Where an attempt is made to effect service under subsection 15a (1) on an insurer or an agent, and for any reason service cannot be effected, the document may be served on the Superintendent and such service shall be deemed to be service on the insurer or agent.

Method of
service

(2) Service may be made on the Superintendent under subsection (1) by first class registered mail addressed to the Superintendent at the Superintendent's office, or by personal service on the Superintendent.

Superin-
tendent to
forward
document

(3) Where a document is served on the Superintendent under subsection (1), the Superintendent shall forthwith mail the document to the insurer or agent at the address for the insurer or agent contained in the records of the Superintendent.

9. Section 18 of the said Act is repealed and the following substituted therefor:

18. The Superintendent may publish any information that the Superintendent considers to be in the public interest.

Publication
by Superin-
tendent

10.—(1) Subsections 21 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) No person shall carry on business as an insurer or engage in an act constituting the business of insurance in Ontario without a licence under this Act.

Prohibition
re: licence

(2a) No insurer shall carry on business in Ontario as an insurer of a class of insurance that is not authorized by its licence under this Act.

Idem

(3) No person in Ontario shall do or cause to be done any act or thing mentioned in subsection 20 (3) on behalf of or as agent of an insurer that is not licensed under this Act.

Prohibition
against acting
on behalf of
unlicensed
insurer

(2) Subsection 21 (5) of the said Act is repealed and the following substituted therefor:

(5) No insurer that is incorporated in Ontario and licensed under this Act shall carry on or solicit business as an insurer in another jurisdiction unless it is authorized to do so under the laws of that jurisdiction.

Unauthorized
insurance

11.—(1) Subsection 80 (1) of the said Act is repealed and the following substituted therefor:

(1) When required by the Superintendent, licensed insurers shall prepare and file with the Superintendent or with an agency designated by the Superintendent, a return respecting the experience of the insurer's business in a form approved by the Superintendent containing such information as the Superintendent may require.

Returns

(2) Subsection 80 (3) of the said Act is amended by striking out "statistical" in the fifth line.

(3) Subsections 80 (4) and (5) of the said Act are repealed and the following substituted therefor:

(4) The insurer shall pay the accountant for an audit under subsection (3) forthwith upon receiving a certificate of the Superintendent stating the amount payable.

Expenses of
audit

(5) Any amount payable to an accountant under subsection (3) that is not paid within thirty days from the date on which the insurer receives the Superintendent's certificate becomes a debt owing to the Crown.

Debt to the
Crown

12.—(1) Subsection 81 (1) of the said Act is repealed and the following substituted therefor:

Annual and
interim
statements

(1) Subject to sections 323 and 327, every licensed insurer shall,

- (a) prepare annually and deliver to the Superintendent, on or before the prescribed date for the prescribed category of insurer, a statement of the condition of affairs of the insurer for the year that ended on the 31st day of December next preceding the delivery of the statement; and
- (b) prepare and deliver to the Superintendent when required by the Superintendent, for the prescribed category of insurer, an interim statement for the period specified by the Superintendent containing such information as the Superintendent considers necessary to assess the insurer's condition of affairs.

Contents of
annual
statement

(1a) A statement of the condition of affairs of an insurer under clause (1) (a) shall be in a form approved by the Superintendent, and verified in a manner, and shall set out,

- (a) the assets, liabilities, receipts and expenditures of the insurer for the year;
- (b) particulars of the business done by the insurer in Ontario during the year; and
- (c) such other information as the Superintendent considers necessary to assess an insurer's condition of affairs.

Auditor's
report

(1b) A statement of the condition of affairs of an insurer under clause (1) (a) shall be accompanied by a report of an auditor prepared in the manner required by the Superintendent.

(2) Subsection 81 (2) of the said Act is amended by striking out "subsection (1)" in the fourth line and inserting in lieu thereof "clause (1) (a)".

(3) Subsections 81 (4), (5), (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

Indirect
collection of
personal
information

(4) The Superintendent is authorized to obtain from insurers personal information about identifiable individuals where the collection of the information is required to monitor the

condition of affairs of the insurer and the information is collected on a statement made under subsection (1).

13. The said Act is further amended by adding thereto the following sections:

81a. Notice of the requirements for returns under section 80 or 81 is sufficient if it is sent by first class ordinary mail addressed to the insurer at the insurer's address for service of notice or process as identified in the records of the Superintendent. Notice of returns

81b. The financial statements required under this Act shall be prepared in accordance with this Act and the regulations. Preparation of financial statements

14. Section 97 of the said Act and the heading "Penalties" preceding section 97 are repealed.

15.—(1) Subsection 98 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 67, section 8 and 1987, chapter 8, section 3, is further amended by adding thereto the following clauses:

- (ah) prescribing categories of insurers for the purpose of subsection 80 (1), requiring insurers to file a return under that subsection by category and prescribing the information that insurers may solicit from insured persons for purposes of such returns;
- (ai) prescribing categories of insurers for the purpose of subsection 81 (1);
- (aj) prescribing dates for the purpose of clause 81 (1) (a);
- (ak) governing the preparation of financial statements required under this Act or the regulations;
- (al) prescribing the information to be given to applicants or to insured persons under subsection 203b (1) and the circumstances in which it is to be given;
- (am) prescribing activities that constitute unfair or deceptive acts or practices under subclause 393 (b) (xii), and prescribing requirements to be met by insurers that, if not complied with, constitute unfair or deceptive acts or practices.

(2) Clause 98 (1) (b) of the said Act is amended by inserting after “the” in the first line “benefits”.

16. Section 201 of the said Act is amended by adding thereto the following clause:

(aa) “excluded driver” means a person named as an excluded driver in an endorsement under section 217a.

17. The said Act is further amended by adding thereto the following section:

Exception re:
insured

201a. Except as provided under Schedule C for benefits payable under subsections 232 (1) and 233 (1), the insured under a contract shall be deemed not to include any person who sustains loss or damage while any automobile insured under the contract is being used or operated by an excluded driver.

18.—(1) Subsection 203 (1) of the said Act is amended by striking out “application” in the first line.

(2) Subsection 203 (2) of the said Act is repealed.

19. The said Act is further amended by adding thereto the following sections:

Application
form

203a. Where so required by the regulations, no insurer shall use a form of application other than a prescribed form.

Information
for
applicants,
etc.

203b.—(1) An insurer shall supply at such times as may be prescribed such information as may be prescribed to applicants for automobile insurance and to named insureds under contracts.

Information
deemed to
be part of
application

(2) Information supplied under subsection (1) by an insurer to an applicant for automobile insurance shall be deemed to be a part of the application.

20.—(1) Subsection 207 (1) of the said Act is amended by striking out “subsection 203 (2)” in the first line.

(2) The Statutory Conditions set out in section 207 of the said Act are amended by adding thereto the following:

Refund of
Premium
Overpayment

1a. Where the insurer has incorrectly classified its risk exposure under this contract under the risk classification scheme used by the insurer or that the insurer is required by law to use, the insurer shall make the necessary correction

and shall refund to the insured the amount of any premium overpayment together with interest thereon at the prejudgment interest rate as defined in clause 137 (1) (d) of the *Courts of Justice Act, 1984* for the period that the incorrect classification was in effect. 1984, c. 11

21. The said Act is further amended by adding thereto the following section:

208a.—(1) If an insurer does not intend to renew a contract or if an insurer proposes to renew a contract on significantly varied terms, the insurer shall, Notice of expiry or significant variation

- (a) give the named insured not less than thirty days notice in writing of the insurer's intention or proposal; or
- (b) give the broker, if any, through whom the contract was placed forty-five days notice in writing of the insurer's intention or proposal.

(2) Subject to subsection (3), a broker to whom an insurer has given notice under clause (1) (b) shall give the named insured under the contract not less than thirty days notice in writing of the insurer's intention or proposal. Idem

(3) Where, before a broker is required to have given notice to a named insured under subsection (2), the broker places with another insurer a replacement contract containing substantially similar terms as the expiring contract, the broker is exempted from giving notice under subsection (2). Exception

(4) For the purposes of subsection (1), a significant variation in the terms of a contract includes a significant increase in the premium payable, or a change in coverages or policy limits. Significant variation of terms

22. Subsection 209 (1) of the said Act is amended by adding at the commencement thereof "Subject to section 209a".

23. The said Act is further amended by adding thereto the following section:

209a. If a contract evidenced by a motor vehicle liability policy names an excluded driver, the insurer is not liable to any person under the contract or under this Act or the regulations for any loss or damage that occurs while the excluded driver is using or operating a motor vehicle insured under the contract, except as provided in Schedule C for benefits payable under subsections 232 (1) and 233 (1). Insurer not liable re: excluded driver

24. The said Act is further amended by adding thereto the following section:

Excluded
driver
endorsement

217a. A named insured may stipulate by endorsement to a contract evidenced by a motor vehicle liability policy that any person named in the endorsement is an excluded driver under the contract.

25. Section 231 of the said Act is amended by adding thereto the following subsection:

Exclusion
from
coverage

(2a) Notwithstanding clause 231 (2) (b), a person who sustains loss or damage while the insured automobile is being used or operated by an excluded driver shall be deemed not to be a person insured under the contract in which the excluded driver is named, except as provided in Schedule C for benefits payable under subsections 232 (1) and 233 (1).

26. Section 234 of the said Act is repealed and the following substituted therefor:

Right to
particulars of
insurance

234.—(1) A person who is injured or the personal representative of a person who is injured or killed in an accident in Ontario involving an automobile is entitled to receive particulars as to whether the owner or operator has insurance of the type mentioned in section 232 or 233, and the name of the insurer, if any.

Demand for
particulars

(2) A person or the person's personal representative may demand the particulars described in subsection (1) by registered mail from the owner or operator of the automobile or the insurer, if any, of either of them.

Reply

(3) Every owner, operator and insurer shall comply with a demand under subsection (2) within ten days of receiving the demand.

27. Section 365 of the said Act is amended by adding at the end thereof "but does not include the Ontario Automobile Insurance Board established under the *Ontario Automobile Insurance Board Act, 1988*".

28.—(1) Clause 393 (a) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 70, section 32, is repealed and the following substituted therefor:

(a) "person" includes an individual, corporation, association, partnership, organization, reciprocal or inter-insurance exchange, member of the society

known as Lloyd's, fraternal society, mutual benefit society or syndicate.

(2) Clause 393 (b) of the said Act is amended,

- (a) by striking out “in the business of insurance” in the first and second lines;**
- (b) by striking out “or” at the end of subclause (viii); and**
- (c) by repealing subclause (ix) and the following substituted therefor:**
 - (ix) any conduct resulting in unreasonable delay or resistance to the fair adjustment and settlement of claims,**
 - (x) making the issuance or variation of a policy of automobile insurance conditional upon the purchase by the insured of another insurance policy,**
 - (xi) when rating a person or a vehicle as an insurance risk for the purpose of determining the premium payable for a policy of automobile insurance, misclassifying the person or vehicle under the risk classification system used by the insurer or that the insurer is required by law to use, or**
 - (xii) any activity or failure to act that is prescribed as an unfair or deceptive act or practice.**

29. Sections 396 and 397 of the said Act are repealed and the following substituted therefor:

396.—(1) If, in the opinion of the Superintendent, a person is committing any act or pursuing any course of conduct that is an unfair or deceptive act or practice or might reasonably be expected to result in a state of affairs that would constitute an unfair or deceptive act or practice, the Superintendent may give notice to the person of the Superintendent's intention to order the person,

Superintendent's orders

- (a) to cease or refrain from doing any act or pursuing any course of conduct identified by the Superintendent;**

- (b) to cease engaging in the business of insurance or any aspect of the business of insurance specified by the Superintendent; or
- (c) to perform such acts as in the opinion of the Superintendent are necessary to remedy the situation.

Hearing

(2) A person, by written notice served on the Superintendent within fifteen days after the service of the notice on the person under subsection (1), may require a hearing before the Superintendent.

Interim order

(3) Notwithstanding subsection (2), where in the opinion of the Superintendent the interests of the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Superintendent, without prior notice, may make an interim order as described in clause (1) (a), (b) or (c) which shall take effect immediately on its making, and which shall become permanent on the fifteenth day after its making unless within that time a hearing before the Superintendent is requested.

**When order
may be made**

(4) If no hearing is requested within the time set out in subsection (2) or (3), or if a hearing is held and the Superintendent is of the opinion that an order described in clause (1) (a), (b) or (c) should be made, the Superintendent may make a permanent order under any of those clauses which shall take effect immediately on its making or at such later date as may be set out in the order.

Hearing

(5) A request for a hearing under subsection (3) shall be in writing and served on the Superintendent.

**Extension of
order**

(6) If a hearing is requested under subsection (3), the Superintendent may extend the temporary order until the hearing is concluded or any appeal from the hearing is concluded and the order is confirmed, varied or revoked.

**Modification
or revocation**

(7) The Superintendent may, after giving the person named in the order an opportunity to be heard, modify or, without holding a hearing, revoke an order made under this section.

30. The said Act is further amended by adding thereto the following Part:

PART XX

EXAMINATION AND ENFORCEMENT

407. In this Part, “examination” means examination, appraisal, audit or inspection under this Act. Definition

408.—(1) It is a condition of the licensing of a person that the person facilitate examinations. Examinations, general

(2) For the purpose of an examination, the insurer, agent or adjuster shall prepare and submit to the person conducting the examination such statements or returns with respect to the insurer’s agent’s or adjuster’s business, finances or other affairs, in addition to the statements or returns mentioned in this Act, as the Superintendent may require. Material to be furnished

(3) The officers, agents and employees of an insurer, agent or adjuster shall open the books for inspection and shall otherwise facilitate an examination under this Act so far as it is in their power. Duty of officers, etc.

(4) In order to facilitate an examination of the books and records of an insurer, agent or adjuster, the Superintendent may require the insurer, agent or adjuster to produce the books and records at his, her or its principal place of business in Ontario, or at such other convenient place as the Superintendent may direct. Production of books

(5) On the direction of the Superintendent, if an examination of an insurer is made at an office situate outside Ontario, the insurer shall pay the costs and expenses in connection with the examination. Expense of further examination

409.—(1) A person conducting an examination, for the purpose of carrying out that person’s duties, Powers of examination, etc.

- (a) may enter any place at any reasonable time;
- (b) may require the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall return them within a reasonable time to the person who produced them; and

- (d) may question a person on matters that are or may be relevant to the carrying out of the examination.

Entry to
dwellings

(2) No person may exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Warrant for
search

(3) Where a justice of the peace is satisfied on information upon oath that there are in a place documents or things that there are reasonable grounds to believe will afford evidence relevant to the carrying out of an examination under this Act, the justice of the peace may issue a warrant authorizing the person named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Warrant for
entry

(4) Where a justice of the peace is satisfied on information upon oath that there are reasonable grounds to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a person may carry out an examination, the justice of the peace may issue a warrant authorizing such entry by the person named in the warrant.

Execution
and expiry of
warrant

(5) A warrant issued under subsection (3) or (4),

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(6) No person shall hinder, obstruct or interfere with a person in the execution of a warrant or otherwise impede a person carrying out an examination.

Idem

(7) Subsection (6) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (3).

Admissibility
of copies

(8) Copies of, or extracts from, documents and things removed from premises under this Act and certified by the person who made the copies as being true copies of, or extracts from, the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

410.—(1) An auditor shall promptly report to the insurer and to the Superintendent any breach of this Act of which the auditor is aware or is made aware under subsection (2) and, if the insurer does not act to rectify the breach within a reasonable period of time, the auditor shall promptly report the failure to rectify to the Superintendent. Reporting by auditor

(2) Any person undertaking professional services for an insurer who, in providing the professional services, becomes aware of a breach of this Act shall promptly report the breach to the insurer and the auditor of the insurer or, if there is no auditor, to the Superintendent. Reporting by others

(3) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client. Solicitor-client privilege

411. A person who in good faith makes a statement or disclosure to the Superintendent that is relevant to the Superintendent's duties shall not be liable in any civil action arising out of the making of the statement or disclosure. No liability

412.—(1) In this section, "person" includes an individual, corporation, association, partnership, organization, reciprocal or inter-insurance exchange, member of the society known as Lloyd's, fraternal society, mutual benefit society or syndicate. Definition

(2) Every person who, Offences

- (a) directly or indirectly furnishes false, misleading or incomplete information to the Superintendent whether the information is required under this Act or is volunteered;
- (b) fails to comply with any requirement of, or any order or direction made under, this Act;
- (c) fails to comply with any written undertaking given to the Superintendent;
- (d) contravenes this Act or the regulations; or
- (e) contravenes any term, condition or restriction imposed by a licence,

is guilty of an offence.

(3) On conviction for an offence under this Act, the person convicted is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000. Penalty

Derivative

(4) Every director, officer and chief agent of a corporation and every person acting in a similar capacity or performing similar functions in an unincorporated association who,

- (a) caused, authorized, permitted or participated in the corporation or unincorporated association committing an offence referred to in subsection (2); or
- (b) failed to take reasonable care to prevent the corporation or unincorporated association from committing an offence referred to in subsection (2),

is guilty of an offence and is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000, whether or not the corporation or unincorporated association has been prosecuted for or convicted of the offence.

Restitution

(5) Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Order for compliance

413.—(1) If it appears to the Superintendent that any person has failed to comply with or is not complying with,

- (a) any order, decision, direction or inquiry made under this Act;
- (b) any undertaking given; or
- (c) any term, condition or restriction imposed on its licence, where applicable,

the Superintendent may, in addition to any other rights under this Act, apply to a judge of the High Court for an order directing the person to comply with or restraining the person from violating the order, decision, direction, inquiry, undertaking, term, condition or restriction, and the judge may make such order as the judge considers appropriate.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Limitation period

414. No proceeding for an offence under this Act may be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Superintendent, as certified by the Superintendent.

31.—(1) Part III of Subsection 2 of Schedule C to the said Act is amended by adding thereto the following paragraph:

Aa. Notwithstanding subparagraph A(d), an excluded driver who sustains loss or damage while the described automobile or a newly-acquired or temporary substitute automobile as defined in this policy is being operated by the excluded driver shall be deemed not to be a person insured in Quebec.

(2) Subparagraph (2) of Subsection 3 of the said Schedule C is amended by adding thereto the following sub-subparagraph:

- (c) The Insurer shall not be liable under this section for bodily injury to or the death of a person who is an excluded driver under the automobile owner's policy and who was using or operating the automobile at the time the accident occurred.

(3) Subparagraph (4) of Subsection 3 of the said Schedule C is amended by inserting after "opportunity" in the second line "on reasonable notice".

(4) Sub-subparagraph (7) (a) of Subsection 3 of the said Schedule C is repealed and the following substituted therefor:

- (a) All amounts payable under this section, other than benefits under Part II of Subsection 2, shall be paid by the Insurer within thirty days after it has received proof of claim.
- (aa) The initial benefits for loss of time under Part II of Subsection 2 shall be paid by the Insurer within ten days after it has received proof of claim, and thereafter, payments shall be made every week while the Insurer remains liable to the insured person, if the insured person furnishes proof of continuing disability within a reasonable time whenever reasonably required to do so.

32.—(1) Section 3 of the *Compulsory Automobile Insurance Act*, being chapter 83 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(1a) Despite subsection (1), an operator of a motor vehicle who is named as an excluded driver under the contract of automobile insurance under which the vehicle is insured, shall have in the vehicle at all times an insurance card evidencing that the operator is a named insured under another contract of automobile insurance, and the operator shall surrender the

Excluded driver to carry insurance card

insurance card for reasonable inspection upon the demand of a police officer.

(2) Subsection 3 (2) of the said Act is amended by striking out "subsection (1)" in the first line and inserting in lieu thereof "this section".

33. Section 21 of the *Human Rights Code, 1981*, being chapter 53, is amended by striking out "automobile" in the fourth line.

34. Section 1 of the *Motor Vehicle Accident Claims Act*, being chapter 298 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 12, section 1, is further amended by adding thereto the following subsection:

Exception re:
excluded
driver

R.S.O. 1980,
c. 218

(1a) Notwithstanding that a motor vehicle is insured under a motor vehicle liability policy, it shall be deemed to be an uninsured motor vehicle for the purposes of this Act while it is being operated by an excluded driver as defined in the *Insurance Act* with respect to that policy unless the excluded driver is a named insured under another motor vehicle liability policy.

35.—(1) Subsection 12 (1) of the *Ontario Automobile Insurance Board Act, 1988*, being chapter 18, is amended by adding thereto the following clause:

(fa) require insurers, insurers' associations and the Facility Association to prepare and file with the Board or with a statistical agency designated by the Board, a return containing such financial and statistical information of the experience of the insurer in such form and at such times as may be required by the Board.

(2) Clauses 29 (1) (e) and (f) of the said Act are repealed.

(3) Subsection 29 (1a) of the said Act, as enacted by clause 29 (3) (b) of the said Act, is amended by adding thereto the following clauses:

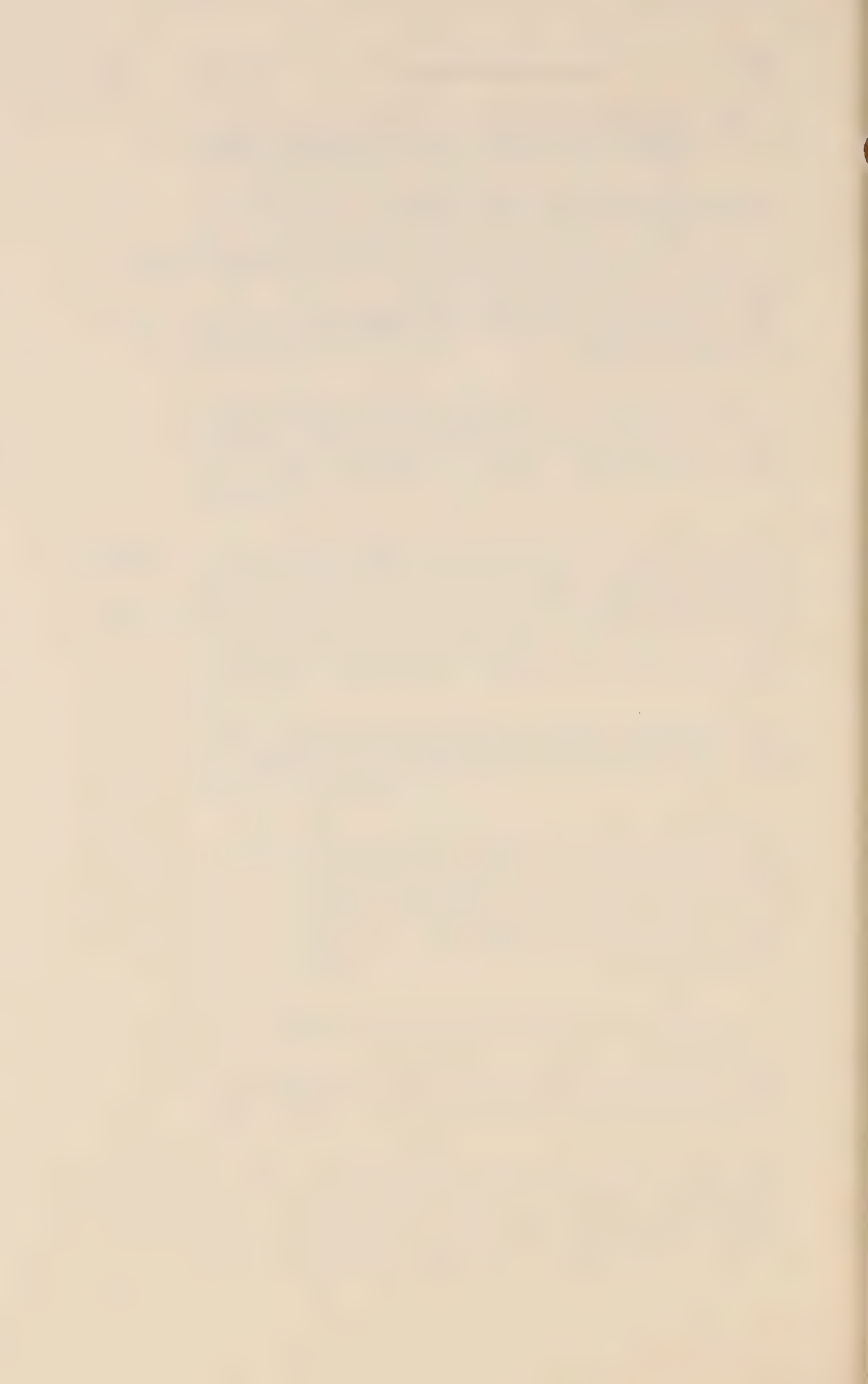
(e) governing the preparation and filing by insurers of a return under clause 12 (1) (fa) and requiring that the accuracy of information in the return be certified by an actuary or an accountant as may be appropriate; and

- (f) prescribing the design of, and the factors used to design any statistical classification scheme upon which a return under clause 12 (1) (fa) is based.

(4) Section 33 of the said Act is repealed.

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

37. The short title of this Act is the *Insurance Statute Law Amendment Act, 1989*. Short title



Bill 156

An Act to establish the Property Assessment Corporation

The Hon. R. Mancini
Minister of Revenue



1st Reading April 24th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill is intended to implement the proposal in the Treasurer's Budget of April 24, 1990 to provide property assessment and enumeration services through a Crown agency, to be called the Property Assessment Corporation:

1. The Corporation will consist of not fewer than three members appointed by the Lieutenant Governor in Council. Excluding the chair, at least 50 per cent of the members will be appointed from the municipal sector.
2. Its employees and officials will be appointed under the *Public Service Act* and will be entitled to the same benefits as they previously enjoyed as employees and officials of the Ministry of Revenue.
3. The Corporation's objects are to continue all of the present duties carried out by the Property Assessment Program of the Ministry of Revenue, including preparing annual assessment rolls, notices and supplementary assessments, determining equalized assessments, carrying out reassessments, conducting enumerations and preparing school support lists.
4. The Corporation, with the approval of the Lieutenant Governor in Council, will have the authority to establish a schedule of fees and charges for services performed by it for municipalities and others.

COMPLEMENTARY AMENDMENTS

Assessment Act

The amendments provide that the board and the Corporation will have the following duties and responsibilities which are currently exercised by the Minister of Revenue:

1. The appointment of assessment commissioners.
2. The approval of an exemption from taxation for additions to house seniors.
3. The determination of pipe line rates after reassessments and the publication of those rates in *The Ontario Gazette*.
4. The delaying of the roll return, where necessary.
5. The directing of equalizations.
6. The directing of equalized assessments within classes of property upon request by a municipality and publishing the class factors in *The Ontario Gazette*.

Municipal Statutes

The amendments provide for the board and the Corporation, rather than the Minister of Revenue, to direct equalized assessments within classes of property on a county-wide or region-wide basis upon request of the county or region and publishing the class factors in *The Ontario Gazette* under the *Municipal Act*, *District Municipality of Muskoka Act*, *Regional Municipality of Haldimand-Norfolk Act*, *Regional Municipality of Sudbury Act* and *Regional Municipality of Waterloo Act*.

Bill 156

1990

An Act to establish the Property Assessment Corporation

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“board” means the board of directors of the Corporation;

“Corporation” means the Property Assessment Corporation;

“Minister” means the Minister of Revenue.

2.—(1) There is hereby established a corporation without share capital under the name of “Property Assessment Corporation”.

Corporation
established

(2) The *Corporations Act* does not apply to the Corporation.

R.S.O. 1980,
c. 95
does not
apply

(3) The Corporation shall consist of not fewer than three members appointed by the Lieutenant Governor in Council.

Composition

(4) Each member of the Corporation shall hold office for a term not exceeding three years and until his or her successor is appointed and is eligible for reappointment.

Term of
office

(5) Excluding the chair, at least 50 per cent of the members of the Corporation shall be representatives of the municipal sector, being either members of council or senior appointed officials of a municipality.

Appointment

(6) In the event of a vacancy in the office of a member, the Lieutenant Governor in Council may appoint a person in place of the member for the remainder of the unexpired term.

Vacancy

3.—(1) The members of the Corporation form its board of directors.

Board

Chair

(2) The Lieutenant Governor in Council shall designate one of the directors as chair of the board.

Remuneration
and
expenses

(3) The Corporation may pay its directors such remuneration and expenses as are fixed by the Lieutenant Governor in Council.

Exception,
remuneration

(4) Despite subsection (3), the Corporation shall not pay remuneration to a director in his or her capacity as a director if he or she is,

(a) an employee of Her Majesty in right of Ontario or of an agency of Her Majesty in right of Ontario; or

(b) an employee, as defined in paragraph 46 of section 208 of the *Municipal Act*, of a municipality, including a district, metropolitan or regional municipality or the County of Oxford, or of a local board as defined in that paragraph.

R.S.O. 1980,
c. 302

Disclosure:
conflict of
interest
1982, c. 4

(5) Section 132 of the *Business Corporations Act*, 1982 applies with necessary modifications to members of the board.

Chair to
preside

4.—(1) The chair shall preside at all meetings of the board and, in the absence of the chair, one of the directors present at the meeting who is chosen to act by the directors present at the meeting has all the powers and duties of the chair.

Quorum

(2) A majority of the directors constitutes a quorum for the transaction of business at meetings of the board.

By-laws

(3) The board may pass by-laws regulating its proceedings, specifying the powers and duties of the officers and employees of the Corporation, and generally for the conduct and management of the affairs of the Corporation.

Executive
committee

(4) The board may appoint from its membership a committee of directors and delegate to that committee any of the powers of the board.

Approval by
by-law or
resolution

(5) A by-law or resolution consented to by the signatures of all the directors or all of the members of a committee established under subsection (4) is as valid and effective as if it had been passed at a meeting of the board or committee, respectively, held for that purpose.

Duties of
board

5. The board shall manage and supervise the affairs of the Corporation.

6.—(1) The objects of the Corporation are to perform the duties imposed on assessment commissioners and assessors under the *Assessment Act* and any other Act, and includes, Objects
R.S.O. 1980,
c. 31

- (a) preparing and returning assessment rolls;
- (b) preparing assessment notices and omitted and supplementary assessments;
- (c) defending assessments before tribunals and courts;
- (d) determining equalized assessments;
- (e) carrying out reassessments as may be required by the board or by proclamation of the Lieutenant Governor;
- (f) conducting enumerations in support of provincial and municipal elections;
- (g) preparing school support lists;
- (h) carrying out required duties in respect of applications for tax refunds under the *Municipal Act*; R.S.O. 1980,
c. 302
- (i) maintaining assessment standards across Ontario; and
- (j) performing any other duties and responsibilities assigned or delegated to the Corporation under any other Act or by a Minister of the Crown.

(2) The Corporation, for the objects set out in subsection Powers
(1), has power,

- (a) to establish rules for the conduct of its affairs;
- (b) to develop standards for the training and development of its staff;
- (c) with the approval of the Lieutenant Governor in Council, to establish a schedule of fees and charges to be paid for services performed by the Corporation for others and, with the approval of the Minister, to waive the payment of such fees and charges in specific cases;
- (d) to inform the public of its activities;

- (e) to acquire, manage and dispose of any real and personal property and any right or privilege that, in the opinion of the board, is necessary for the purposes of the Corporation;
- (f) to enter into agreements with any ministry or agency of the Government of Ontario for the use by the Corporation of services, equipment and facilities of the ministry or agency on a fee for service basis.

Head office **7.**—(1) The head office of the Corporation shall be in the City of Oshawa or such other location in Ontario as the Lieutenant Governor in Council may designate.

Seal (2) The Corporation shall have a seal which shall be adopted by a resolution or by-law of the board.

Officers and employees
R.S.O. 1980, c. 418 **8.**—(1) Such officers and employees may be appointed under the *Public Service Act* as are considered necessary for the proper conduct of the business of the Corporation.

Expert assistance (2) The Corporation may engage persons under contract other than those employed under subsection (1) to provide professional, technical or other assistance to or on behalf of the Corporation.

Use of Government facilities (3) The Corporation may make use of such services and facilities, including the services of a public servant on secondment, as are provided to it by a ministry, board, commission or agency of the Government of Ontario.

Application of 1989, c. 73 (4) The Public Service Pension Plan established under the *Public Service Pension Act, 1989* applies to the employees of the Corporation.

Attendance and vacation credits (5) Where the Corporation employs a person previously employed as a civil servant within the meaning of the *Public Service Act*, any attendance credits standing to the credit of that person as a civil servant immediately before his or her employment by the Corporation shall continue to stand to the credit of that person as an employee of the Corporation.

Employee benefit or group plan (6) Any benefit or group plan applicable to civil servants within the meaning of the *Public Service Act* under any Act is applicable to the employees of the Corporation.

Protection from personal liability **9.** No action or proceeding for damages shall be instituted against a director or officer of the Corporation or a former director or officer of the Corporation for any act done in good faith in the execution or intended execution of the person's

duty or for any alleged neglect or default in the execution in good faith of the person's duty.

10. The real property vested in the Corporation is exempt from taxation for municipal or school purposes so long as it is actually used and occupied for the purposes of the Corporation. Tax exemption

11.—(1) The income, revenues and profits earned by the Corporation shall be applied only to the furtherance of the objects of the Corporation. Earnings of Corporation

(2) Any surplus money of the Corporation shall, on the order of the Lieutenant Governor in Council, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. Surplus money

(3) The Minister may, out of the money appropriated therefor by the Legislature, make grants or loans to the Corporation. Grants or loans to Corporation

(4) The Corporation may, with the approval of the Treasurer of Ontario, borrow such money as may be needed by the Corporation. Borrowing by Corporation

12.—(1) The fiscal year of the Corporation begins on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal year

(2) The board shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Corporation annually. Audit
R.S.O. 1980,
c. 405

(3) The audit of the accounts of the Corporation is subject to the review by the Provincial Auditor. Review by Provincial Auditor

(4) The Minister shall ensure that the Corporation submits its annual budget to the Lieutenant Governor in Council for review each year before the beginning of the fiscal year. Annual budget

13.—(1) The Corporation shall, within 120 days after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Corporation, including the audited financial statements signed by the chair of the board and one other director. Annual report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next session. Idem

Crown
agency
R.S.O. 1980,
c. 106
Application

14. The Corporation is a Crown agency within the meaning of the *Crown Agency Act*.

15.—(1) Where the Corporation has made a charge to a municipality and the charge has not been paid within a reasonable period of time, the Corporation may apply to the Supreme Court for summary judgment against the municipality.

Evidence

(2) On any application under subsection (1), the filing of a copy of a notice of charge sent to a municipality by the Corporation and certified by an officer of the Corporation as being a true copy is proof, in the absence of evidence to the contrary, of the liability of the municipality to pay the amount stated in the notice, without proof of the office or signature of the officer.

Definition

16.—(1) In this section, “Property Assessment Program” means the program established under that name by Her Majesty the Queen in right of Ontario as a part of the Ministry of Revenue.

Transfer of
employees

(2) Every person employed immediately before the coming into force of this Act under an agreement between that person and Her Majesty the Queen in right of Ontario entered into on behalf of the Property Assessment Program shall be deemed to be an employee of the Corporation on the same terms and conditions as prevailed between that person and Her Majesty the Queen in right of Ontario and the Corporation shall be deemed to be a party to every such agreement.

Assets and
liabilities
transferred

(3) The assets provided by the Ministry of Revenue to the Property Assessment Program and the liabilities assumed by the Ministry of Revenue in respect of that program are transferred to the Corporation.

Transfer of
title
R.S.O. 1980,
cc. 445, 52
and 231
1989, c. 16

(4) For the purposes of the *Registry Act*, the *Personal Property Security Act*, 1989, the *Bulk Sales Act*, the *Land Transfer Tax Act* and any other Act affecting title to any property transferred to the Corporation by Her Majesty the Queen in right of Ontario, it is sufficient to cite this Act to show the transmission of title to the Corporation and the vesting therein of any real or personal property or any interest therein and the transfer of assets effected by this section shall be deemed to have been made in conformity with each of those Acts.

Transition

(5) The appropriations made to the Ministry of Revenue for the fiscal year ending in 1991 in respect of the Property Assessment Program are transferred to the Corporation.

COMPLEMENTARY AMENDMENTS

17. Section 1 of the *Assessment Act*, as amended by the Statutes of Ontario, 1982, chapter 40, sections 2 and 3 and 1988, chapter 47, section 80, is further amended by adding the following clauses:

R.S.O. 1980,
c. 31

(ca) "board" means the board of directors of the Corporation;

(da) "Corporation" means the Property Assessment Corporation.

18.—(1) Clause 2 (1) (a) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 28, section 1, is repealed.

(2) Subsection 2 (2) of the Act is amended by striking out "Minister" in the first line and in the third line and substituting in each case "Corporation".

(3) Subsection 2 (5) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 28, section 1, is repealed and the following substituted:

(5) An officer or employee of the Corporation who is thereunto authorized by the board may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of, or incidental to, the administration of this Act, and every person so authorized has, in respect of such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

Adminis-
tration of
oaths

19. Paragraph 22 of section 3 of the Act, as enacted by the Statutes of Ontario, 1984, chapter 28, section 2, is amended by striking out "Minister" in the tenth line and in the eleventh line and substituting in each case "Corporation".

20.—(1) Subsection 24 (15) of the Act is amended by striking out "Minister" in the second line and substituting "Corporation".

(2) Subsection 24 (16) of the Act is repealed and the following substituted:

(16) Notwithstanding any provision in this section, where, as a result of making a proclamation under section 70, an assessment at market value is made of real property in any

Re-enactment
of table of
rates

municipality or in territory without municipal organization comprised in a locality, the Corporation may,

- (a) determine rates in lieu of the rates in subsection (4) to be applied for the taxation of pipe lines in such municipality or territory; and
- (b) where two or more pipe lines occupy the same right of way, designate the second and subsequent pipe lines and determine the percentage of the rates at which the second and subsequent pipe lines are assessable and taxable,

and the rates and percentages of rates as so determined shall apply to such municipality and territory in the year in which taxation is first levied on the basis of the new assessment at market value resulting from the proclamation and in each subsequent year until the rates or percentage of rates are altered in accordance with subsection (18).

(3) Subsection 24 (16a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 56, section 2, is repealed and the following substituted:

Idem

(16a) Notwithstanding any provision of this section, where a reassessment of all property within a municipality or in territory without municipal organization is made under subsection 63 (3), the Corporation may,

- (a) determine rates in lieu of the rates in subsection (4) to be applied for the taxation of pipe lines; and
- (b) where two or more pipe lines occupy the same right of way, designate the second and subsequent pipe lines and determine the percentage of the rates at which the second and subsequent pipe lines are assessable and taxable.

Idem

(16b) The rates and percentages of rates determined under subsection (16a) shall apply in the year in which taxation is first levied on the basis of the new values resulting from the reassessment and in each subsequent year.

(4) Subsection 24 (17) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 69, section 4, is repealed and the following substituted:

Review of
rates under
subs. (16)

(17) Where a general reassessment is made of all real property in any municipality or in territory without municipal organization comprised in a locality, the Corporation shall

review any rates or percentage of rates prescribed or determined under subsection (16) and the Corporation may,

- (a) determine rates in lieu of the rates under subsection (16) to be applied for the taxation of pipe lines; and
- (b) where two or more pipe lines occupy the same right of way, designate the second and subsequent pipe lines and determine the percentage of the rates at which the second and subsequent pipe lines are assessable and taxable.

(18) The rates and percentage of rates determined under subsection (17) shall apply in the year in which taxation is first levied on the basis of the new values resulting from the reassessment and in each subsequent year until such rates and percentage of rates are again altered in accordance with subsection (17). Idem

(19) The determination of rates and percentage of rates by the Corporation under subsections (16), (16a) and (17) shall be effective for the purposes of assessment and taxation in the municipality or locality in a taxation year and any subsequent year upon publication of a notice of the rates and percentage of rates in *The Ontario Gazette* at any time during such year, and thereupon shall be deemed to have the same force as if prescribed by the regulations. Notice of rates

21.—(1) Subsection 35 (2) of the Act is amended by striking out “Minister” in the fifth line and substituting “Corporation”.

(2) Subsection 35 (3) of the Act, as amended by the Statutes of Ontario, 1982, chapter 40, section 2, is further amended by,

- (a) striking out “Minister” in the first line and in the sixth line and substituting in each case “Corporation”; and
- (b) striking out “he” in the second line and substituting “it”.

22.—(1) Subsection 55 (1) of the Act is amended by striking out “Ministry” in the first line and substituting “Corporation”.

(2) Subsection 55 (4) of the Act, as amended by the Statutes of Ontario, 1983, chapter 58, section 3, is further amended by striking out “Ministry” in the fifth line and substituting “Corporation”.

(3) Subsection 55 (5) of the Act is amended by striking out “Ministry” in the fifth line and substituting “Corporation”.

23.—(1) Subsection 63 (3) of the Act is repealed and the following substituted:

Equalization
of assessment
within a
municipality

(3) If the board considers that, within any class or classes of real property in a municipality, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, it may, if so requested by a resolution of that municipality, direct that such changes be made in the assessment to be contained in the assessment roll next to be returned in that municipality as will, in the board’s opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property and, the Corporation may, for that purpose,

- (a) determine the standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class in the municipality; and
- (b) determine the classes of real property into which the real property in the municipality shall be divided for the purpose of this subsection.

Idem

(4) A determination under subsection (3) shall provide that any equalization of assessment under clause (3) (a),

- (a) shall not alter, as between classes of real property in the municipality, the relative level of assessment at market value previously existing between or among such classes, or shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment in each class; and
- (b) except as is necessary to give effect to section 33, section 64 or subsection (2) of this section, shall not alter the proportion that the municipal tax attributable to a class of real property for the year in which the equalization is directed to be made is of the total municipal tax for that year.

Notice of
determi-
nations

(5) Any determinations made by the Corporation under subsection (3) shall be effective for the purposes of assessment and taxation in the municipality in a taxation year and any subsequent year upon publication of a notice of the determinations in *The Ontario Gazette* during such year and there-

upon shall be deemed to have the same force as if prescribed by the regulations.

24. Section 368a of the *Municipal Act*, as enacted by the Statutes of Ontario, 1987, chapter 17, section 2, is amended by adding the following definitions: R.S.O. 1980,
c. 302

“board” means the board of directors of the Corporation;

“Corporation” means the Property Assessment Corporation.

25.—(1) Subsection 368b (2) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 11, section 10, is repealed and the following substituted:

(2) If the board considers that within a county or within any class or classes of real property within a county, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property in the county, or of real property of that class, as the case may be, the board may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each local municipality as will, in the board's opinion, eliminate or reduce the inequalities in the assessment and, for that purpose, the board,

County-wide
reassessment

- (a) in respect of the county, may name a day that the assessment commissioner in whose region the county is situated shall return a new assessment roll for the assessment at market value of real property in all municipalities in the county; or
- (b) in respect of a parcel or parcels of real property within any class or classes of real property within a county,
 - (i) may determine the classes of real property into which all the real property in the county shall be divided, and
 - (ii) may determine the standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the county,

and any such determination shall provide that any equalization of assessment made under subclause

(ii) shall not alter, as between classes of real property throughout the county, the relative level of assessment at market value previously existing among such classes, or shall provide that the equalization shall alter such levels of assessment at market value no more than is necessary to provide equitability of assessment within each class.

(2) Subsection 368b (2b) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 11, section 10, is amended by striking out "Minister of Revenue" in the fifth line and substituting "board".

(3) Section 368b of the Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 2 and amended by 1989, chapter 11, section 10, is further amended by adding the following subsection:

Notice of
determinations

(2c) Any determinations made by the Corporation under subsection (2) shall be effective for the purposes of assessment and taxation in the county in a taxation year and any subsequent year upon publication of a notice of the determinations in *The Ontario Gazette* during such year and thereupon shall be deemed to have the same force as if prescribed by regulation.

(4) Subsection 368b (3) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 2, is amended by striking out "Minister of Revenue" in the first line and in the seventh and eighth lines and substituting in each case "board".

(5) Clause 368b (3a) (a) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 11, section 10, is amended by striking out "Minister of Revenue" in the first and second lines and substituting "board".

(6) Subsection 368b (4) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 2, is amended by striking out "Minister of Revenue" in the second and third lines and substituting "board".

(7) Subsection 368b (7) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 2, is amended by striking out "Minister of Revenue" in the second line and substituting "board".

(8) Subsection 368b (12) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 2, is amended by striking out "Minister of Revenue" in the fifth line and substituting "board".

(9) Subsection 368b (13) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 11, section 10, is amended by striking out “Minister of Revenue” in the third line and substituting “board”.

(10) Subsection 368b (13a) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 11, section 10, is amended by striking out “Minister of Revenue” in the third line and substituting “board”.

26.—(1) Subsection 78 (1) of the *District Municipality of Muskoka Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 74, section 2, is repealed and the following substituted: R.S.O. 1980,
c. 121

(1) If the board considers that any parcel or parcels of real property within the District Area are assessed inequitably with respect to the assessment of any other parcel or parcels of real property in the District Area, the Corporation may direct that such changes be made in the assessment to be contained in the assessment roll next returned for each area municipality as will, in the opinion of the board, eliminate or reduce inequalities in the assessment of real property in the District Area. District-wide
assessment
update

(1a) In this section,

Definitions

“board” means the board of directors of the Corporation;

“Corporation” means the Property Assessment Corporation.

(2) Subsection 78 (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 74, section 2, is repealed and the following substituted:

(3) A direction made by the Corporation under subsection (1) shall be effective for the purposes of assessment and taxation in the District Area in the taxation year and any subsequent year upon publication of a notice of the direction in *The Ontario Gazette* during such year. When
direction
effective

(3) Subsection 78 (16) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 74, section 2, is repealed.

(4) Section 78 of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 74, section 2, is amended by striking out “Minister of Revenue” wherever it appears and substituting in each case “Corporation”.

27.—(1) Subsection 82 (1) of the *Regional Municipality of Haldimand-Norfolk Act*, as re-enacted by the Statutes of R.S.O. 1980,
c. 435

Ontario, 1987, chapter 16, section 2, is repealed and the following substituted:

Region-wide
assessment
update

(1) If the board considers that, within any class or classes of real property within the Regional Area, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the board may direct that such changes be made in the assessment to be contained in the assessment roll next returned for each area municipality as will, in the board's opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property and, for that purpose, the Corporation,

- (a) may determine the classes of real property into which the real property in the Regional Area shall be divided for the purpose of this subsection; and
- (b) may determine the standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the Regional Area.

Idem

(1a) A determination under subsection (1) shall provide that any equalization of assessment made under clause (1) (b) shall not alter, as between classes of real property throughout the Regional Area, the relative level of assessment at market value previously existing among such classes, or shall provide that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

Definitions

(1b) In this section and in section 83,

“board” means the board of directors of the Corporation;

“Corporation” means the Property Assessment Corporation.

(2) Subsection 82 (14) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 16, section 2, is repealed and the following substituted:

Notice of
determinations

(14) Any determinations made by the Corporation under subsection (1) shall be effective for the purposes of assessment and taxation in the Regional Area in a taxation year and any subsequent year upon publication of a notice of the determinations in *The Ontario Gazette* during such year and thereupon shall be deemed to have the same force as if prescribed by regulation.

(3) Sections 82 and 83 of the Act, as re-enacted by the Statutes of Ontario, 1987, chapter 16, section 2, are amended by striking out "Minister of Revenue" wherever it appears and substituting in each case "board".

28.—(1) Subsection 74 (1) of the *Regional Municipality of Sudbury Act*, as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 1, is repealed and the following substituted: R.S.O. 1980, c. 441

(1) If the board considers that, within any class or classes of real property within the Regional Area, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the board may direct that such changes be made in the assessment to be contained in the assessment roll next returned for each municipality as will, in the board's opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property and, the Corporation may, for that purpose, Region-wide reassessment

(a) determine the classes of real property into which the real property in each Regional Area shall be divided for the purpose of this subsection; and

(b) determine the standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the Regional Area.

(1a) A determination under subsection (1) shall provide that any equalization of assessment made under clause (1) (b) shall not alter, as between the classes of real property throughout the Regional Area, the relative level of assessment at market value previously existing among such classes, or shall provide that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class. Idem

(1b) In this section and section 75, Definitions

"board" means the board of directors of the Corporation;

"Corporation" means the Property Assessment Corporation.

(2) Subsection 74 (15) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 1, is repealed and the following substituted:

(15) Any determinations made by the Corporation under subsection (1) shall be effective for the purposes of assessment Notice of determinations

and taxation in the Regional Area in a taxation year and each subsequent year upon publication of a notice of the determinations in *The Ontario Gazette* during such year and thereupon shall be deemed to have the same force as if prescribed by regulation.

(3) Section 74, as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 1 and amended by 1989, chapter 12, section 1, and subsection 75 (4), as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 1, of the Act are amended by striking out “Minister of Revenue” wherever it appears and substituting in each case “board”.

R.S.O. 1980,
c. 442

29.—(1) Subsection 121 (1) of the *Regional Municipality of Waterloo Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 2, is repealed and the following substituted:

Region-wide
reassessment
update

(1) If the board considers that, within any class or classes of real property within the Regional Area, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the board may direct that such changes be made in the assessment roll next returned for each area municipality as will, in the board's opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property and, the Corporation may, for that purpose,

- (a) determine the classes of real property into which the real property in the Regional Area shall be divided for the purpose of this subsection; and
- (b) determine the standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the Regional Area.

Idem

(1a) A determination under subsection (1) shall provide that any equalization of assessment made under clause (1) (b) shall not alter, as between classes of real property throughout the Regional Area, the relative level of assessment at market value previously existing among such classes, or shall provide that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

Definitions

(1b) In this section and in section 122,

“board” means the board of directors of the Corporation;

“Corporation” means the Property Assessment Corporation.

(2) Subsection 121 (14) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 23, section 2, is repealed and the following substituted:

(14) Any determinations made by the Corporation under subsection (1) shall be effective for the purposes of assessment and taxation in the Regional Area in a taxation year and any subsequent year upon publication of a notice of the determinations in *The Ontario Gazette* during such year and thereupon shall be deemed to have the same force as if prescribed by regulation.

Notice of
determi-
nations

(3) Sections 121 and 122 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 2, are amended by striking out "Minister of Revenue" wherever it appears and substituting in each case "board".

30. This Act comes into force on the 1st day of January, 1991.

Commence-
ment

31. The short title of this Act is the *Property Assessment Corporation Act, 1990*.

Short title

8-217
56

Full

Bill 157

An Act to authorize Municipalities to pass By-laws respecting Smoking in the Workplace and in Enclosed Public Places

Mr. Sterling



1st Reading June 15th, 1988

2nd Reading

3rd Reading

Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The Bill enables the council of a municipality to pass by-laws respecting smoking in the workplace. Inspectors may be appointed by the municipality to enforce the Act. If an inspector is obstructed in his or her duties, the inspector may apply to a justice of the peace for a warrant to enter any workplace.

It also enables the council of a municipality to pass by-laws prohibiting or regulating smoking in enclosed public places.

Bill 157

1989

**An Act to authorize Municipalities to pass
By-laws respecting Smoking in the Workplace and in
Enclosed Public Places**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “municipality” means a locality the inhabitants of which are incorporated. Definition

2.—(1) In this section, Definitions

“employee” includes a person who,

- (a) performs any work for or supplies any services to an employer, or
- (b) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;

“employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of a person therein;

“enclosed” means closed in by a roof or ceiling and four walls with an appropriate opening or openings for ingress or egress;

“inspector” means a person appointed by the council of the municipality under clause (2) (k);

“smoke” or “smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment;

“smoking policy” means a written policy that attempts to accommodate the preferences of smokers and non-smokers in a workplace;

“workplace” means any enclosed area of a building or structure in which an employee works.

By-laws
respecting
smoking in
the
workplace

(2) The council of a municipality may pass by-laws,

- (a) requiring every employer in the municipality, within the time specified in the by-law, to adopt and implement a smoking policy in respect of each workplace under the control, supervision or ownership of the employer;
- (b) requiring every employer required by by-law to adopt and implement a smoking policy, to maintain that smoking policy in the workplace for which it was adopted and to give notice of the adoption of the smoking policy to each employee in the workplace within the time specified in the by-law;
- (c) providing that if a smoking policy has been adopted, a non-smoking employee may object to the employer about smoke in the workplace;
- (d) requiring an employer, if an objection has been made under clause (c), to attempt to reach a reasonable accommodation between the preferences of non-smoking and smoking employees using already available means of ventilation, separations or partitions, but no employer shall be required to make any expenditures or structural alterations to the workplace to accommodate the preferences of non-smoking employees;
- (e) requiring an employer to prohibit smoking in the workplace if an accommodation satisfactory to all non-smoking employees in a workplace cannot be reached and to erect signs indicating the prohibition;
- (f) prohibiting any person from smoking in a workplace contrary to the smoking policy adopted for that workplace;
- (g) prohibiting any person from smoking in a workplace if smoking has been prohibited as required by by-law;

- (h) prescribing the size, location and details of the signs which an employer is required by the by-law to erect in that workplace;
- (i) providing that any employer who permits smoking in a workplace contrary to the smoking policy adopted for that workplace or contrary to the prohibition under clause (e) is guilty of an offence;
- (j) prescribing the method by which any notice is required to be given by the employer; and
- (k) appointing inspectors.

(3) For the enforcement of any by-law passed under this section, an inspector, upon producing proper identification, may, at all reasonable hours, enter any workplace or any building or structure in which a workplace is situate, and may make examinations, investigations and inquiries.

Inspection of
workplace

(4) No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

Where
workplace is
a dwelling

(5) No person shall hinder or obstruct an inspector lawfully carrying out the enforcement of any by-law passed under this section.

Obstruction
of inspector
prohibited

(6) If any person,

Application
for warrant

- (a) denies entry or access to an inspector, through or over a workplace or through or over any building or structure in which a workplace is situate;
- (b) instructs or directs an inspector to leave a workplace or any building or structure in which a workplace is situate;
- (c) obstructs an inspector from carrying out the enforcement of a by-law passed under this section; or
- (d) refuses to comply with a request for the production of any thing, the production of which is requested for the purpose of an examination, investigation or inquiry,

an inspector may apply to a justice of the peace for a warrant.

Warrant by
justice of the
peace

(7) If a justice of the peace is satisfied on information under oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to any workplace or any building or structure in which a workplace is situate, or

(ii) to make examinations, investigations and inquiries for the purpose of this section or the enforcement of any by-law passed under this section; and

(b) that an inspector,

(i) has been denied entry to the workplace or to any building or structure in which a workplace is situate,

(ii) has been instructed or directed to leave the workplace or any building or structure in which a workplace is situate,

(iii) has been obstructed, or

(iv) has been refused production of any thing related to an examination, investigation or inquiry,

the justice of the peace may issue a warrant authorizing an inspector to act as mentioned in clause (a) in respect of the workplace or building or structure specified in the warrant, by force if necessary, together with such police officers as may be called upon to assist the inspector.

Execution of
warrant

(8) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

Expiry of
warrant

(9) A warrant issued under this section shall state the date upon which it expires, which shall be a date not later than fifteen days after the warrant is issued.

Application
without
notice

(10) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the employer or owner or occupier of the workplace or of the building or structure in which a workplace is situate.

3.—(1) In this section,

Definitions

“enclosed public place” means an enclosed indoor area that is open to the public and includes,

- (a) those parts of a restaurant, health care facility, retail store, commercial establishment, office building, educational or financial institution that are normally open to clients, customers, patients, students or other members of the public,
- (b) a bus or other vehicle that is used to provide transportation to the general public for a fee,
- (c) a school bus,
- (d) an elevator, escalator or stairway in any building, and
- (e) a bus shelter;

“health care facility” means a facility in which patients are or may be admitted for medical treatment or care and includes a hospital, nursing home and medical clinic;

“smoke” or “smoking” includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

(2) The council of a municipality may pass by-laws prohibiting or regulating smoking in enclosed public places or in any class thereof during the time that the enclosed public places are actually open to the public.

By-laws
respecting
smoking in
public places

(3) A by-law passed under this section may,

Idem

- (a) designate areas where smoking is permitted in enclosed public places; and
- (b) prescribe the size, location and details of the signs which must be erected in enclosed public places.

(4) Nothing in this section limits the rights of a person in charge of an enclosed public place to further limit or ban smoking on all or part of the premises under that person's charge.

More
stringent
limitations on
smoking

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Municipal Smoking By-law Authorization Act, 1989*.

Bill 158

An Act to amend the Retail Sales Tax Act

The Hon. R. Mancini
Minister of Revenue



1st Reading April 24th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of April 24, 1990 and in addition contains administrative amendments required to parallel similar provisions in the proposed Goods and Services Tax legislation.

SECTION 1. The amendments in this section and sections 8, 9 and 13 are made for administrative purposes to parallel similar provisions in the proposed Goods and Services Tax legislation.

Subsection 1. This provision increases the time within which an application for refund of tax paid in error by a purchaser under the Act may be made from three years to four years from the date of payment.

Subsection 2. This amendment is consequential to the one provided in subsection (1).

Subsection 3. This provision increases the time within which a vendor can make a refund of tax to a purchaser from three years to four years from the date of the sale transaction.

SECTION 2. This amendment repeals section 2a of the Act which authorizes the Minister to pay a rebate of tax paid on tangible personal property purchased in Ontario and taken outside the province for permanent use outside Ontario, and a rebate of tax paid on transient accommodation by a person not resident in Ontario.

Subsection 14 (2) of this Bill will amend subsection 45 (3) of the Act to enable the Minister to make regulations providing for both types of rebates. The provision of these tourist rebates by regulation will provide the Minister with flexibility in prescribing terms and conditions of rebates similar to those provided for rebates to be made under the proposed Goods and Services Tax legislation.

SECTION 3.—Subsection 1. This amendment removes the restriction that the tire tax imposed under subsection 2b (1) of the Act in respect to rentals of tangible personal property to which the tire is attached or in connection with which the tire is supplied, is only payable where rentals of tangible personal property have been made for a term of seven days or more.

Subsection 2. This amendment will provide authority to the Minister to prescribe by regulation an apportionment of the tire tax payable under subsection 2b (1) of the Act amongst all purchasers who lease for a period of less than thirty days the tangible personal property that a new pneumatic tire has been attached to or in connection with which the tire has been supplied.

SECTION 4. This amendment removes the requirement for the tax exemption available to manufacturers or producers of tangible personal property under paragraph 45 of subsection 5 (1) of the Act that the production machinery or equipment be described in Part XIII of Schedule III to the *Excise Tax Act* (Canada). That Schedule provides a listing of the specific types of production machinery or equipment that are currently exempt from federal sales tax. With the removal of the federal sales tax and its replacement by a goods and services tax, the reference in the *Retail Sales Tax Act* to the Schedule in the federal statute will be removed.

The amendment also enables the Minister to prescribe by regulation the types of machinery, equipment and processing materials that can be purchased tax exempt under paragraph 45 of subsection 5 (1) of the Act.

SECTION 5. This amendment, effective April 1st, 1991, will increase the compensation afforded to vendors for collecting and remitting the tax due under the Act from 4 per cent of the tax collected in the twelve-month period with a maximum of \$1,000 per annum, to 5 per cent of the tax collected with a maximum of \$1,500 per annum. The

maximum compensation for the 1990-91 year is increased by \$100 to a maximum of \$1,100 payable in 1991.

SECTION 6. This amendment clarifies that every vendor of taxable services is required to keep, in addition to records of all purchases and sales of tangible personal property, records of all purchases and sales of taxable services made by that vendor, whether for consumption or use or for resale.

SECTION 7. This re-enactment of section 15 of the Act brings the provisions governing confidentiality of taxpayer information into line with the current provisions of other taxing statutes administered by the Minister of Revenue. The amendment creates an offence for breaching the confidentiality section which provides for a maximum court fine upon conviction of \$2,000.

SECTION 8. This amendment increases the time within which the Minister can assess the tax payable by a purchaser from three years to four years from the date the tax becomes payable.

SECTION 9. This amendment increases the time within which the Minister can assess a penalty against a vendor for non-collection of tax from three years to four years from the date the tax should have been collected.

SECTION 10. This re-enactment of section 32 of the Act provides for the compounding of interest daily, or, as otherwise prescribed by the Minister, on all amounts owing under the Act by a vendor or purchaser. This amendment will parallel a similar provision in the proposed Goods and Services Tax legislation.

SECTION 11. This re-enactment of section 33 of the Act provides for the compounding of interest daily or as otherwise prescribed by the Minister on all overpayments made by a vendor or purchaser under the Act. This amendment will also parallel a similar provision in the proposed Goods and Services Tax legislation.

SECTION 12. This amendment provides for,

- (a) the joint and several liability of directors of a corporation for amounts owing and unpaid by the corporation under the Act; and
- (b) the joint and several liability of officers of, members of a committee managing the affairs of, or the members of an unincorporated association, in respect of amounts owing and unpaid by the unincorporated association under the Act.

These amendments parallel similar sections of the proposed Goods and Services Tax legislation.

SECTION 13. This amendment increases from three to four years the period which the Minister can consider for the purposes of issuing a certificate of the amount of tax not collected for use in a prosecution under subsection 41 (2) of the Act.

SECTION 14.—Subsection 1. This amendment provides a specific authority for the Lieutenant Governor in Council to make a regulation prescribing circumstances and situations in which no tax is payable upon a transfer of tangible personal property between related persons.

Subsection 2. This amendment authorizes the Minister to make regulations providing for,

- (a) a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made; and

- (b) a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of Ontario and prescribing the terms and conditions under which the rebate may be made.

Bill 158

1990

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 (9) of the *Retail Sales Tax Act*, as amended by the Statutes of Ontario, 1981, chapter 38, section 1 and 1983, chapter 27, section 2, is repealed and the following substituted: R.S.O. 1980,
c. 454

(9) An amount paid under this Act as tax that is not payable as tax and that was not paid to discharge liability under an assessment made under this Act shall be refunded if application for the refund is made to the Minister within four years after the date of payment of the amount. Application
for refund

(9a) Only one application may be made under subsection (9) in respect of the same amount. Limitation

(9b) If the amount that is the subject of an application under subsection (9) was paid in the course of performing a contract and was repaid by another party to the contract, the amount may be refunded to the other party. Refund to
contracting
party

(2) Subsection 2 (11) of the Act is amended by striking out “three” in the first line, in the eighth line and in the ninth line and substituting in each instance “four”.

(3) Subsection 2 (12) of the Act is amended by striking out “three” in the fifth line and substituting “four”.

2. Section 2a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 1, section 2, is repealed.

3.—(1) Subclause 2b (3) (b) (ii) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 38, section 3, is amended by striking out “for a term of at least seven days” in the first and second lines.

(2) Subsection 2b (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 38, section 3, is amended by adding the following clause:

- (d) despite clause (b), where the tangible personal property referred to in subclause (b) (ii) is ordinarily leased to different purchasers, each of whom will lease the tangible personal property for a period of less than thirty days, the tax imposed under subsection 2b (1) shall be apportioned among all purchasers who lease the tangible personal property during the period that a new pneumatic tire is attached thereto or in connection with which the tire has been supplied, in such manner as may be prescribed by the Minister.

4. Paragraph 45 of subsection 5 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 27, section 4, is repealed and the following substituted:

- 45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by such manufacturer or producer of either,
 - (a) goods for manufacture or production by the manufacturer or producer or for the manufacture or production of others, or
 - (b) manufacturing or production processes for use by the manufacturer or producer or the use of others,

if such machinery, equipment or processing materials are prescribed by the Minister, but the exemption conferred by this paragraph does not apply to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

5.—(1) Subsection 12 (1) of the Act is repealed and the following substituted:

- (1) For each twelve-month period during which tax is collected commencing on the 1st day of April, there may be paid

to each vendor holding a valid and subsisting permit issued under section 3, the lesser of,

- (a) \$1,500; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,
 - (ii) \$20 for each return with respect to tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and
 - (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct the compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

(2) Section 12 of the Act is amended by adding the following subsection:

(1a) There may be paid to each vendor holding a valid and subsisting permit issued under section 3 for the twelve-month period during which tax was collected commencing on the 1st day of April, 1990 and ending on the 31st day of March, 1991, the lesser of, Transitional

- (a) \$1,100; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

- (ii) \$20 for each return with respect to the tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and
- (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

6. Subsection 14 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is repealed and the following substituted:

Records of
vendors of
taxable
services

(2) Every vendor of taxable services shall keep records of all purchases and sales made by the vendor of tangible personal property, and records of all purchases and sales made by the vendor of taxable services, whether for consumption, use or resale, and any failure to do so constitutes an offence under this Act.

7. Section 15 of the Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 8, is repealed and the following substituted:

Confiden-
tiality

15.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections (1) and (2) do not apply in respect of, Exception

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act.

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act, Communi-
cation

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario, in the administration or enforcement of any laws, information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow an official or authorized person employed by the Government of Ontario, in the administration or enforcement of any laws, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act,

provided that any information, record or thing obtained by the official or authorized person that affects the administration or enforcement of this Act is communicated or furnished on a reciprocal basis to the Minister, and the information, record or thing will only be used for the administration or enforcement of this Act or an Act that is administered or enforced by the official or authorized person receiving the information, record or thing.

(5) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to, Idem

- (a) the person from whom the information, record or thing was obtained; or
- (b) any person,
 - (i) for the purpose of an objection or appeal that has been or may be taken by the person under this Act arising out of an assessment of tax under this Act in connection with which the information, record or thing was obtained, or
 - (ii) by whom an amount payable under this Act is payable or has been paid; or
- (c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(6) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Tax policy

(7) The Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

Offence

(8) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

8. Subsection 16 (3) of the Act is amended by striking out “three” in the second line and substituting “four”.

9. Subsection 17 (4) of the Act is amended by striking out “three” in the third line and in the twelfth line and substituting in each instance “four”.

10. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 11, is repealed and the following substituted:

32.—(1) If on a particular date a debt as calculated under subsection (2) is payable by a vendor or a purchaser, the vendor or purchaser shall be charged interest payable to the Treasurer at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister. Interest

(2) The amount of the debt payable by a vendor or purchaser under this Act at a particular date is the amount by which, Calculation

(a) the aggregate of,

- (i) all tax under this Act collectable by the vendor or payable by the purchaser before that date,
- (ii) all penalties assessed under this Act against the vendor or purchaser at any time before that date, and
- (iii) the total of all amounts of interest charged under this section to the vendor or purchaser in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

- (i) the amount of all taxes remitted by the vendor or paid by the purchaser under this Act prior to that date, and
- (ii) the total of all amounts of interest credited to the vendor or purchaser in respect of a period of time ending before that date.

(3) The interest under subsection (1) shall be computed and compounded daily or as otherwise prescribed by the Minister to the date on which it is paid. Compounding

11. Section 33 of the Act, as amended by the Statutes of Ontario, 1986, chapter 1, section 11, is repealed and the following substituted:

Overpayment

33. If an amount in respect of an overpayment is refunded or applied on other liability or if by a decision of the Minister under section 22 or by a decision of a court, it is finally determined that the tax payable under this Act is less than the amount assessed in a notice of assessment under section 16, 16a or 17 to which objection was made or from which appeal was taken and the decision makes it appear that there has been an overpayment of tax, interest at the rate prescribed, computed and compounded daily, or as otherwise prescribed by the Minister, shall be paid or applied from the date the overpayment arose to the date of refund or application on other liability, unless the amount of interest is less than \$1, in which case no interest shall be paid or applied under this section.

12. The Act is amended by adding the following sections:

Directors

40a.—(1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 35 (1) (b) and directed to the sheriff of the county or district in which any property of the corporation is located or situate and the warrant has been returned by the sheriff unsatisfied in whole or in part;
- (b) the corporation has commenced liquidation or dissolution proceedings, or has been dissolved, or has lost control or possession of its property in proceedings described in subsection 20 (2), the amount of the corporation's liability described under subsection (1) has been proven or, in respect of proceedings described in subsection 20 (2), a claim for the amount has been made within six months after the earlier of the date of the commencement of the proceedings and the date of dissolution, or in the case of proceedings described in subsection 20 (2), the date when the remaining property of the corporation has been realized and the proceeds distributed; or

- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

R.S.C. 1985,
c. B-3

(3) A director of a corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Prudent
director

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require.

Assessment

(5) Any assessment under subsection (4) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation.

Time limit

(6) Where execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Execution

(7) Where a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings or in respect of which a claim has been made in proceedings described in subsection 20 (2), the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had the amount not been so paid and, where a warrant of execution has been issued and directed to the sheriff of the county or district in which any property of the corporation is located or situate, the director is entitled to an assignment of the warrant of execution to the extent of the director's payment, and the Minister is empowered to make the assignment.

Idem

(8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and any liability for tax payable by the corporation under section 2 including any penalty and interest relating thereto.

Allocation by
Minister

Officers

40b.—(1) Where a liability is imposed upon a person (in this section referred to as the “body”) that is a society, union, club, fraternal organization or other unincorporated association, in respect of the failure to collect or failure to remit any tax collected, including any penalty or interest relating thereto, it is the joint and several liability and responsibility of,

- (a) every member of the body holding office as president, chair, treasurer, secretary or similar officer of the body;
- (b) where there are no such officers of the body, every member of any committee having management of the affairs of the body; and
- (c) where there are no such officers of the body and no such committee, every member of the body,

to pay or remit that amount.

Assessment

(2) The Minister may assess any person for any amount for which the person is liable under this section and, where the Minister sends a notice of assessment, the sections of this Act pertaining to assessment, objections and appeals are applicable, with such modifications as the circumstances require.

Exception

(3) An assessment of a person under subsection (2) shall not,

- (a) include any amount that the body was liable to pay or remit before the day the person became jointly and severally liable;
- (b) include any amount that the body became liable to pay or remit after the day the person ceased to be jointly and severally liable; or
- (c) be made more than two years after the day the person ceased to be jointly and severally liable unless the person was grossly negligent in the carrying out of any duty or obligation imposed on the body by or under this section or made, or participated in, assented to or acquiesced in the making of a false statement or omission in a return, application, form, certificate, statement, or answer made by the body.

Allocation by Minister

(4) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the body under this Act to any of the liabilities described in subsection

(1) including penalties and interest relating thereto and any liability for tax payable by the body under section 2 including any penalty and interest relating thereto.

13. Subsection 41 (3) of the Act is amended by striking out “three” in the sixth line and substituting “four”.

14.—(1) Subsection 45 (2) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, 1983, chapter 27, section 16 and 1986, chapter 1, section 13, is further amended by adding the following clause:

- (l) prescribing circumstances or situations in which no tax is payable upon a transfer of tangible personal property between related persons.

(2) Subsection 45 (3) of the Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16, 1986, chapter 66, section 12 and 1989, chapter 38, section 7, is further amended by adding the following clauses:

- (o) providing for a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made;
- (p) providing for a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of Ontario and prescribing the terms and conditions under which the rebate or partial rebate may be made.

15.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 5 (1) comes into force on the 1st day of April, 1991. Idem

(3) Subsection 5 (2) comes into force on the 1st day of February, 1991. Idem

(4) Sections 1, 2, 4, 8, 9, 10, 11, 12 and 13 and subsection 14 (2) come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

16. The short title of this Act is the *Retail Sales Tax Amendment Act, 1990*. Short title

Bill 159



An Act to amend the Income Tax Act

The Hon. R. Mancini
Minister of Revenue

1st Reading April 24th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposal contained in the Treasurer's Budget of April 24, 1990 to enhance the Ontario Tax Reduction Program as well as making a minor interpretation change.

SECTION 1. The amendment clarifies that the term "Minister" in the provisions of the *Income Tax Act* (Canada) adopted for the purposes of the Act means the Ontario Minister of Revenue and not the Minister of National Revenue.

SECTION 2. The re-enactment of subsections 6 (1) and (2) base the determination of the Ontario Tax Reduction for low-income earners on the calculation of a prescribed personal amount for the individual. No tax is payable if the personal amount equals or exceeds Ontario income tax otherwise payable by the individual. If the tax exceeds the personal amount, the tax is reduced by the difference, if any, by which three times the personal amount exceeds twice the tax otherwise payable.

Bill 159

1990

An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Table in clause 1 (6) (h) of the *Income Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 91, section 1, is amended by adding after the fourth item the following item:

R.S.O. 1980,
c. 213

Minister

Provincial Minister

2. Subsections 6 (1) and (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 4, and subsection 6 (2a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 4, are repealed and the following substituted:

(1) If the tax otherwise payable by an individual under this Act for a taxation year does not exceed the individual's personal amount determined in the prescribed manner for the taxation year, no tax is payable under this Act by the individual for the taxation year.

No tax
payable

(2) If the tax otherwise payable by an individual under this Act for a taxation year exceeds the individual's personal amount for the taxation year, the tax payable under this Act may be reduced by the amount, if any, by which three times the individual's personal amount for the taxation year exceeds twice the amount of tax otherwise payable by the individual under this Act for the taxation year.

Tax
reduction

3.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 20th day of December, 1989.

Idem

Idem

(3) Section 2 shall be deemed to have come into force on the 1st day of January, 1990.

Short title

4. The short title of this Act is the *Income Tax Amendment Act, 1990*.

Bill 160

An Act to amend the Tobacco Tax Act

The Hon. R. Mancini
Minister of Revenue



1st Reading April 24th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The purpose of the Bill is to implement the proposals in the Treasurer's Budget of April 24, 1990 to,

- (a) increase the tax on cigarettes by one cent per cigarette and on tobacco, other than cigars and cigarettes, by 2.63 cents per gram or part thereof; and
- (b) to introduce administrative amendments to ensure the effective functioning of the cigarette marking program.

SECTION 1. Provides definitions that are complementary to the amendments set out in the Bill.

SECTION 2.—Subsection 1. Increases the tax on each cigarette sold to consumers to 4.83 cents per cigarette and to 4.83 cents per gram or part thereof of tobacco other than cigarettes or cigars.

Subsection 5. Enacts offences for knowingly failing to pay tax and failing to pay tax at the time of purchase.

SECTION 3. Sets out the requirement of wholesalers and retail dealers to hold permits and provides an offence for operating without a permit or in contravention of conditions or restrictions in a permit.

SECTION 4. Specifies the responsibilities of collectors, importers, wholesalers and retailers to collect tax, and provides an offence for failing to collect the tax.

SECTION 5. Enacts provisions that,

- (a) requires importers to register and collect tax on sales of tobacco, requires exporters to register and report exports of tobacco, and provides for non-compliance;
- (b) requires interjurisdictional transporters to register, specifies their responsibilities and permits the seizure of tobacco from those who fail to comply with the Act, including disposal of the load where a penalty is not paid;
- (c) requires tobacco manufacturers to register and provides an offence for operating without a registration certificate or in contravention of conditions or requirements therein;
- (d) requires persons who mark or stamp cigarettes to hold a permit, sets out their responsibilities and specifies offences;
- (e) requires persons who wish to sell unmarked cigarettes to hold a permit and sets out penalties and offences; and
- (f) provides for the issuance of a transit permit authorizing unmarked cigarettes to be transported through Ontario.

SECTION 6. Permits the Minister to refuse to designate, to register or to issue a permit to any person or to cancel a designation, registration or permit after a hearing. It also permits the Minister to require that security be provided by collectors, importers, exporters and those holding permits to mark or stamp cigarettes or to sell unmarked cigarettes.

SECTION 7. Provides for returns to be filed by collectors, importers, exporters, inter-jurisdictional transporters, wholesalers, manufacturers and other permit holders.

SECTION 8. Provides for the transmission of tax collectable or payable by collectors and importers and permits collectors to take off-setting deductions where refunds are claimed.

SECTION 9.—Subsection 1. Imposes a penalty on any person who fails to collect that can be assessed within four years of the time it should have been collected.

SECTION 12.—Subsection 1. Permits an authorized official of the Ministry to audit records and inspect inventory at locations maintained by registered markers and stampers.

SECTION 13. Permits the detention of vehicles, vessels, railway equipment or aircraft for audit purposes, the seizure of records found therein and the seizure of tobacco in bulk where the person in control of the load is not a collector, the holder of a registration certificate or the holder of a permit issued under the Act. Such tobacco will be forfeited to Her Majesty unless the person can satisfy a court that the person had the right to possess the tobacco.

SECTION 16. Prohibits the unauthorized possession of unmarked cigarettes for the purposes of sale and provides for a penalty for such possession and for purchase and sale of unmarked cigarettes.

SECTION 17. Provides confidentiality protection for information and records supplied under the Act, but permits release in legal proceedings, on exchange of information arrangements with other Ontario Ministries and with other taxing jurisdictions and to the Ministry of Treasury and Economics for tax policy review.

SECTION 18. Provides a prohibition for the use of Ontario tax indicia outside Ontario and provides for a penalty and for an offence for the fraudulent use of tax indicia.

SECTION 21. Permits the settlement of tax claims with other provinces by which tax paid in error in one province can be paid directly to another province where the person who paid the tax in error owes tax.

SECTION 22. Provides a refund for tobacco exported out of Ontario, with a penalty for misrepresentation.

SECTION 23. Provides authority to make regulations.

Bill 160

1990

An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (a) of the *Tobacco Tax Act* is amended by striking out “but does not include a dealer” in the twelve and thirteenth lines. R.S.O. 1980,
c. 502

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 1 and 1985, chapter 22, section 1, is further amended by adding the following clauses:

(ba) “designated warehouse” means a location designated by the Minister for the purpose of storing unmarked cigarettes;

(bb) “exporter” means a person who takes or causes to be taken out of Ontario tobacco in bulk and who may be accountable for the tax on such tobacco to the jurisdiction receiving the tobacco;

(bc) “importer” means a person who brings or causes to be brought into Ontario tobacco in bulk;

(bd) “interjurisdictional transporter” means the operator of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the operator of an aircraft who engages in the transportation of tobacco in bulk and who operates for such purposes,

(i) one or more motor vehicles licensed or required to be licensed under the *Highway Traffic Act* inside and outside Ontario, R.S.O. 1980,
c. 198

(ii) one or more vessels under the *Canada Shipping Act*, R.S.C. 1985,
c. S-9

R.S.C. 1985,
c. A-2
1987, c. 34
(Can.)

(iii) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or

(iv) aircraft, the operator of which is approved as a carrier of goods or passengers under the *Aeronautics Act* (Canada) or regulations made thereunder, or the *National Transportation Act, 1987* (Canada), or regulations made thereunder,

and includes the consignee or consignor of tobacco in bulk who is not the holder of a permit to mark cigarettes;

(be) “manufacturer” means a person who manufactures, fabricates or produces tobacco products for distribution, sale or storage in Ontario;

(bf) “marked cigarettes” mean packages of cigarettes, cartons and cases that are marked or stamped with an indicium as required under the regulations;

(bg) “mark-point” means a location designated by the Minister for the purposes of marking cigarettes;

.

(ca) “motor vehicle” means a machine operated, propelled or driven otherwise than by muscular power;

(cb) “operator” means, when used with reference to a motor vehicle other than a motor vehicle designed for use as a vessel, an aircraft or railway equipment operated on rails,

(i) the registered owner, provided the motor vehicle is not leased to another person or, if leased, that the period of the lease is less than thirty-one consecutive days, or

(ii) the lessee, if the motor vehicle is leased for more than thirty consecutive days;

.

(da) “prescribed” means prescribed by the regulations;

(db) "registered importer" means an importer to whom a registration certificate has been issued under this Act;

(dc) "registered wholesaler" means a wholesaler to whom a wholesaler's permit has been issued under this Act;

.

(ga) "tax" includes penalties and interest;

.

(ha) "tobacco in bulk" means 10,000 or more cigarettes, 200 or more cigars, or ten kilograms or more of any tobacco, other than cigarettes or cigars.

(3) Clause 1 (j) of the Act is repealed and the following substituted:

(j) "wholesaler" means a person who sells in Ontario tobacco for the purpose of resale, and includes a person who operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by another person.

2.—(1) Clauses 2 (1) (a) and (b) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 65, section 1, are repealed and the following substituted:

(a) 4.83 cents on every cigarette purchased by the consumer;

(b) 4.83 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars purchased by the consumer; and

.

(2) Subsection 2 (2) of the Act is amended by striking out "prescribed by the regulations" in the fifth line and substituting "provided under this Act".

(3) Subsection 2 (4) of the Act is amended by adding at the end thereof "and, for the purposes of the assessment and collection of such payment, the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a collector".

(4) Subsection 2 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 17, section 1, is repealed and the following substituted:

Assignment
of book
debts

(5) Where a collector or a registered importer has made an assignment of his or her book debts, whether by way of specific or general assignment, or in any other manner disposes of his or her present or future right to collect his or her book debts, the assignment does not include the portion of the book debts that the collector or importer, as agent for the Minister, charged the person to whom he or she sold the tobacco as tax under this Act, and any such assignee or any other person who collects the book debts shall be deemed to be a collector under this Act and shall collect, remit and account under this Act and the regulations for the unassigned portion.

(5) Section 2 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 2, 1982, chapter 17, section 1, 1983, chapter 25, section 1, 1985, chapter 22, section 2, 1986, chapter 41, section 1 and 1988, chapter 65, section 1, is further amended by adding the following subsections:

Liability for
tax

(6) Every consumer is liable for the tax imposed by this Act until the consumer has paid it.

Offence

(7) Every person who knowingly fails to pay the tax imposed by this section when required by this Act to do so is guilty of an offence and on conviction is liable to a fine of not less than \$200 and, if greater, not more than double the amount of the tax payable by that person.

Offence

(8) Every person who fails to comply with subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$50,000.

3. Section 3 of the Act is repealed and the following substituted:

Wholesaler's
permit

3.—(1) No person shall sell or deliver in Ontario tobacco for resale unless the person holds a wholesaler's permit issued to the person in such form and manner as the Minister requires.

Conditions
and
restrictions

(2) The Minister may, as a requirement for the issuance of a wholesaler's permit, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Wholesaler's
permit
required

(3) No person shall purchase or receive delivery in Ontario of tobacco from a wholesaler who does not hold a whole-

salers's permit issued under this section or from an importer who does not hold a registration certificate issued under this Act.

(4) No wholesaler shall sell or deliver in Ontario tobacco to a person who does not hold a vendor's permit issued to the person under the *Retail Sales Tax Act*.

Sale to retail dealer

R.S.O. 1980, c. 454

(5) No person shall sell or deliver in Ontario tobacco to a consumer unless the person holds a vendor's permit issued to the person under the *Retail Sales Tax Act*.

Vendor's permit required

(6) Every wholesaler shall forthwith notify the Minister in writing of all changes in the name or nature of the wholesaler's business or of the termination of the business.

Change of business

(7) Every person who,

Offence

(a) operates as a wholesaler without obtaining a wholesaler's permit required under this section; or

(b) being the holder of such a permit contravenes any condition or restriction contained in the permit or any other requirements specified in this section,

is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus, in respect of a conviction under clause (a), to a fine of not less than three times the tax imposed on consumers under section 2 on all tobacco sold by the person during the period the person did not hold a wholesaler's permit.

4.—(1) Section 3a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 65, section 2, is amended by striking out “prescribed by the regulations” in the fifth line and substituting “provided under this Act”.

(2) Section 3a is further amended by adding the following subsections:

(2) Every collector shall collect the tax collectable and payable under this Act from every person to whom the collector sells or delivers tobacco in Ontario, and shall remit the tax, as well as the tax, if any, on all tobacco in respect of which the collector is a consumer, to the Treasurer at the times and in the manner required by this Act and the regulations.

Collection of tax by collector

(3) Subsection (2) does not apply to require a collector to collect tax under this Act on the sale by the collector of

Sale to another collector

tobacco to another collector who is not a consumer in respect of the tobacco.

Collection of
tax by retail
dealer

(4) Every retail dealer who is not a collector or a registered importer shall collect the tax on tobacco sold or delivered by the retail dealer to a consumer and pay the tax over to the collector, registered importer or registered wholesaler from whom the retail dealer purchased tobacco.

Collection of
tax by
wholesaler

(5) Every wholesaler who is not a collector or registered importer shall collect, as agent for the Minister, the tax imposed by this Act from the retail dealer to whom the wholesaler sells or delivers tobacco and shall pay the tax over to the collector or registered importer from whom the wholesaler purchased the tobacco.

Collection of
tax by
importer

(6) Every importer shall collect, as agent for the Minister, the tax collectable or payable under this Act from every person to whom the importer sells or delivers tobacco in Ontario, and shall remit the tax, as well as the tax, if any, in respect of which the importer is a consumer, to the Treasurer at the times and in the manner required by this Act and the regulations.

Agreements

(7) For the purpose of ensuring and facilitating the collection of tax under this Act, the Minister may enter into such arrangements and agreements as the Minister considers appropriate.

Offence

(8) Every collector, importer, wholesaler or retail dealer who refuses or neglects to collect tax in accordance with this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that such person refused or neglected to collect, plus a fine of not less than \$500 and not more than \$10,000.

5. The Act is amended by adding the following sections:

Registration
certificate,
importer or
exporter

3b.—(1) Every importer of tobacco in bulk into Ontario and every exporter of tobacco in bulk out of Ontario shall apply for and the Minister shall issue a registration certificate in such form and manner as the Minister requires.

Conditions
and
restrictions

(2) The Minister may, as a requirement for the issuance of a registration certificate, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Collection of
tax

(3) Every registered importer shall, at the times and in the manner required by this Act and the regulations, collect and remit to the Treasurer the tax collectable and payable under

this Act from every person to whom the registered importer has sold tobacco and the tax on all tobacco in respect of which the registered importer is a consumer.

(4) Subsection (3) does not apply to require a registered importer to collect tax under this Act on the sale of tobacco by the registered importer to a collector who is not a consumer in respect of the tobacco.

Sales to
collector

(5) Every registered importer is deemed to be an agent of the Minister to collect the tax imposed by this Act from every person to whom the registered importer sells tobacco.

Agent to
collect tax

(6) Every dealer who purchases or acquires tobacco from an importer who does not hold a registration certificate issued to the importer under this section shall, at the time and in the manner prescribed, remit to the Treasurer the tax collectable and payable on the tobacco purchased or acquired by the dealer.

Non-
registered
importer

(7) Every registered importer or exporter who is an inter-jurisdictional transporter shall keep in the possession of the driver of any motor vehicle operated on behalf of the importer or exporter a notarial copy of the registration certificate issued to the importer or exporter.

Inter-
jurisdictional
transporter

(8) A registered importer or exporter shall provide an interjurisdictional transporter transporting the importer's or exporter's tobacco with a notarial copy of the registration certificate issued to the importer or exporter.

Idem

(9) Every exporter shall forward to the Minister the prescribed information in respect of the tobacco to be exported in the prescribed form and manner.

Export of
tobacco

(10) Following delivery of the tobacco by the exporter to a location outside Ontario, the exporter shall file the required return in the prescribed manner and provide evidence satisfactory to the Minister that the tobacco has been exported out of Ontario.

Return by
exporter

(11) An exporter who fails to comply with subsections (9) and (10) shall pay a penalty, when assessed therefor, on the tobacco exported or to be exported equal to the tax that would be payable on the tobacco exported or to be exported had it been sold to a consumer in Ontario.

Penalty

(12) Every importer or exporter shall forthwith notify the Minister in writing of all changes in the name or nature of the

Notification

importer's or exporter's business or of the termination of the business.

Offence

(13) Every person who operates as an importer or exporter in Ontario without holding a registration certificate required by this section, or who contravenes any condition or restriction contained in the registration certificate issued to the person or who contravenes any other requirement specified in this section is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus, in respect of a conviction for operating as an importer or exporter without holding a registration certificate, to a fine of not less than three times the tax payable by consumers under section 2 on all tobacco imported into or exported out of Ontario by the person during the period the person did not hold a registration certificate.

Offence

(14) Every person who purchases or receives tobacco from an importer who does not hold a registration certificate issued under this Act is guilty of an offence and on conviction is liable to a fine of not less than the tax payable by a consumer under section 2 on the tobacco so purchased by the person.

Registration
certificate

3c.—(1) Every interjurisdictional transporter shall apply for and the Minister shall issue a registration certificate in such form and manner as the Minister requires.

Conditions
and
restrictions

(2) The Minister may, as a requirement for the issuance of a registration certificate, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Uniform
manifest
form

(3) Every interjurisdictional transporter shall complete a uniform manifest form provided by the Minister in respect of every shipment of tobacco in bulk transported by the interjurisdictional transporter into or out of Ontario.

Transporter
to obtain
certificate

(4) Before undertaking to transport tobacco in bulk into or out of Ontario, an interjurisdictional transporter shall obtain the notarial copy of the registration certificate required to be provided under subsection 3b (8).

Possession of
documents

(5) When transporting tobacco in bulk, every interjurisdictional transporter shall keep in the possession of the driver of the motor vehicle in which the tobacco in bulk is being transported,

(a) the interjurisdictional transporter's registration certificate issued under subsection (1);

- (b) a uniform manifest form completed in accordance with subsection (3); and
- (c) if the tobacco in bulk is being transported for an importer or exporter, the notarial copy of the registration certificate obtained in accordance with subsection (4) or the transit permit issued under subsection 3g (1) to the owner of the tobacco in bulk being transported.

(6) Where any person authorized for the purpose by the Minister has reasonable cause to believe that an interjurisdictional transporter does not hold a registration certificate or is transporting tobacco in bulk on behalf of an exporter who does not hold a registration certificate issued under section 3b, the person may, without a warrant, stop and detain any vehicle being operated in Ontario by the interjurisdictional transporter and require the person to produce for examination the documents specified in subsection (5).

Detention of
vehicles

(7) Where, following a detention under subsection (6), the person fails to produce the documents specified in subsection (5), a person authorized for the purpose by the Minister may, without a warrant but subject to subsections (8), (9) and (11), seize, impound, hold and dispose of the tobacco, unless the interjurisdictional transporter complies with subsection (9).

Seizure, etc.,
of tobacco

(8) Despite subsection (7), no seizure, impounding, holding or disposal shall be made if the driver of the vehicle detained under subsection (6) provides proof satisfactory to the person making the detention,

No seizure,
etc.

- (a) that the driver holds a registration certificate issued under subsection (1);
- (b) as to the quantity and destination of the tobacco being transported; and
- (c) that the importer or exporter for whom the tobacco is being transported, if such is the case, holds a registration certificate under subsection 4a (1) or holds a transit permit issued under subsection 3g (1) to the owner of the tobacco being transported.

(9) Tobacco seized under subsection (7) shall be forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the tobacco was seized, or the owner of the tobacco, pays to the Treasurer an amount, as a penalty, equal to

Penalty

the tax that would be payable under subsection 2 (1) if the tobacco were sold to a consumer in Ontario.

Application

(10) Where tobacco has been seized under subsection (7) and the person from whom the tobacco has been seized, or the owner of the tobacco, claims to have the right to possession of the tobacco, the person or owner may apply within thirty days following the seizure, to the Supreme Court to establish the right to possession of the tobacco.

Right to possession

(11) For the purposes of an application under subsection (10), the applicant has the right to possession of the tobacco if,

- (a) the driver of the vehicle, when the tobacco was seized, held a notarial copy of the registration certificate issued under this Act to the interjurisdictional transporter;
- (b) in the case of tobacco transported on behalf of an importer or exporter, the driver of the vehicle, when the tobacco was seized, held a notarial copy of the registration certificate issued under this Act to the importer or exporter or held a notarial copy of the transit permit issued under this Act to the owner of the tobacco; and
- (c) the driver of the vehicle, when the tobacco was seized, held a uniform manifest form completed in accordance with this Act, or the operator of the vehicle delivered the completed uniform manifest form to the Minister within five days of the seizure.

Disposition of application

(12) If, upon application under subsection (10), the court is satisfied that the applicant has the right to possession of the tobacco, the court may order the tobacco be returned to the applicant or that the proceeds of sale of the tobacco be paid to the applicant.

Disposal of tobacco pending disposition

(13) If a final order is not made under subsection (12) within sixty days after the filing of the application under subsection (10), the Minister may dispose of the tobacco and retain the proceeds pending the determination of the application.

Forfeiture of tobacco

(14) Upon dismissal of the application under subsection (12) and the expiry of the appeal period therefrom, the tobacco is forfeited to Her Majesty to be disposed of as the Minister directs.

(15) If a sale of tobacco is directed under subsection (9) or (14) or if the proceeds of the sale are retained under subsection (13) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the tobacco and after payment of the penalty under subsection (9) shall be paid to the person from whom the tobacco was seized or to the owner of the tobacco.

Payment of
proceeds of
sale

(16) Every interjurisdictional transporter transporting tobacco in bulk into or out of Ontario who fails to produce any of the documents required to be kept in the possession of the driver under subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000 for each document not produced.

Offence

3d.—(1) Every manufacturer shall apply for and the Minister shall issue a registration certificate in such form and manner as the Minister requires.

Registration
certificate

(2) The Minister may, as a requirement for the issuance of a registration certificate, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Conditions
and
restrictions

(3) Every manufacturer shall forthwith notify the Minister of all changes in the name or nature of the manufacturer's business or of the termination of the business.

Change of
business

(4) Every person who operates as a manufacturer in Ontario without holding a registration certificate required by this section, or who, being the holder of a registration certificate, contravenes any condition or restriction contained in the registration certificate or any other requirement specified in this section, is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus, in respect of a conviction for operating as a manufacturer without holding a registration certificate, to a fine of not less than an amount equal to three times the tax imposed on consumers under section 2 on all tobacco manufactured by the person during the period the person did not hold a registration certificate.

Offence

3e.—(1) No person shall sell to a consumer required to pay tax under this Act a package of cigarettes or a carton or case that contains packages of cigarettes unless the package, carton or case is marked or stamped in accordance with the regulations.

Prohibition,
sale of
unmarked
package, etc.

Permit to
mark
cigarettes

(2) No person shall mark packages of cigarettes, cartons or cases unless the person holds a permit to mark cigarettes issued to the person under the regulations.

Permit to
stamp
cigarettes

(3) No person shall stamp packages of cigarettes, cartons or cases unless the person holds a permit to stamp cigarettes issued to the person under the regulations.

Idem

(4) The Minister may, as a requirement for the issuance of a permit to mark or stamp cigarettes under the regulations, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Mark-point

(5) The Minister may specify the number and location of mark-points that the holder of a permit to mark or stamp cigarettes may establish and operate and the person shall not mark or stamp cigarettes at any other location.

Storage of
unmarked
cigarettes

(6) No person shall store unmarked cigarettes at a location other than a mark-point or a designated warehouse.

Cancellation
of permit

(7) The Minister may cancel or suspend a permit to mark or stamp cigarettes issued to a person who permits the marking or stamping of cigarettes at a location not specified by the Minister under subsection (5).

Accounting
for indicia

(8) Every holder of a permit to stamp cigarettes shall account for all indicia received from the Minister as required by the regulations.

Penalty

(9) Any indicia for which the holder of a permit to mark or stamp cigarettes fails to account under the regulations shall be deemed to have been affixed to packages of cigarettes or cartons, as the case may be, and sold to consumers liable to pay tax under this Act, and the holder of the permit shall pay a penalty equal to the tax, when assessed therefor.

Offence

(10) Every person who marks or stamps cigarettes without holding a permit issued by the Minister under the regulations, or who, being the holder of a permit, contravenes any condition or restriction contained in the permit or any other requirement specified in this section, is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$10,000, plus, in respect of a conviction for marking or stamping cigarettes without holding a permit, to a fine of not less than an amount equal to three times the tax imposed on consumers under section 2 on all packages of cigarettes or cartons marked by the person during the period that the person did not hold the permit.

(11) Every holder of a permit to mark cigarettes who refuses or neglects to mark packages of cigarettes, cartons or cases in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50,000 and not more than \$1,000,000.

Offence

(12) Every holder of a permit to stamp cigarettes who refuses or neglects to stamp packages of cigarettes, cartons or cases in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$500,000.

Offence

3f.—(1) No person shall purchase, possess, store or sell unmarked cigarettes in Ontario unless the person has applied for and been issued a permit to purchase and sell unmarked cigarettes under the regulations.

Permit to purchase unmarked cigarettes

(2) The Minister may attach such reasonable conditions and restrictions to a permit to purchase and sell unmarked cigarettes as the Minister considers necessary to ensure that the unmarked cigarettes received by the applicant for the permit will be dealt with in accordance with this Act and the regulations.

Conditions and restrictions

(3) Every holder of a permit to purchase and sell unmarked cigarettes shall forthwith notify the Minister in writing of all changes in the name or nature of the person's business or of the termination of the business.

Notification

(4) Every person who, being the holder of a permit to purchase and sell unmarked cigarettes, sells or permits the sale of unmarked cigarettes to another person who is liable to collect or to pay tax under this Act shall pay a penalty, when assessed therefor, equal to the tax on all unmarked cigarettes so sold or permitted to be sold.

Penalty

(5) Every person who, being the holder of a permit to purchase and sell unmarked cigarettes, contravenes this Act or the regulations or any condition or restriction contained in the person's permit is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000, plus a fine of not less than an amount equal to three times the amount of tax, if any, that should have been paid or remitted by the person in compliance with this Act or the regulations.

Offence

3g.—(1) Every person who is not a registered importer or exporter under this Act and who wishes to transport or cause to be transported tobacco in bulk owned by the person from a location outside Ontario, through Ontario and continuing to

Transit permit

another location outside Ontario shall apply to the Minister for a transit permit prior to the transport.

Conditions

(2) The Minister may, as a requirement for the issuance of a transit permit, impose such reasonable conditions, including the posting of security, as the Minister considers appropriate.

Copy of
transit permit

(3) Every person to whom a transit permit is issued under this section and who is an interjurisdictional transporter shall keep in the possession of the driver of any motor vehicle operated by the holder of the transit permit a notarial copy of the permit.

Idem

(4) Every interjurisdictional transporter who is transporting tobacco in bulk on behalf of a person to whom a transit permit has been issued under subsection (1) shall secure from the person notarial copies of the transit permit.

Permit not
valid

(5) A transit permit is not valid in respect of the transport of marked cigarettes.

6. Section 4 of the Act is repealed and the following substituted:

Refusal to
designate,
etc.

4.—(1) The Minister may refuse to designate a person under subsection 3a (1) or to issue a registration certificate or permit under this Act or the regulations if,

- (a) the person has not paid all of the tax that the person is liable to pay under this Act;
- (b) the person, or any officer, director, shareholder, employee or partner of the person,
 - (i) has failed to pay a fine levied upon conviction under this Act,
 - (ii) has been convicted of an offence of fraud or tax evasion within the previous five years, or
 - (iii) held a registration certificate or permit issued under this Act or the regulations that was cancelled within the preceding five years;
- (c) the person fails to satisfy the Minister of the person's ability to perform the conditions proposed by the Minister to be contained in the designation, registration or permit; or

- (d) the person fails to provide security as required by subsection 4a (2).

(2) The Minister may suspend or cancel the designation of a collector or the registration certificate or permit issued to a person under this Act or the regulations if the person contravenes or permits the contravention of any provision of this Act or the regulations or of any condition or restriction contained in the designation, registration certificate or permit.

Suspension or cancellation of designation, etc.

(3) Where the Minister proposes to take action under subsection (1), (2) or 3e (7), the Minister shall, before the refusal, suspension or cancellation is made, afford the person the opportunity to appear before the Minister to show cause why the designation, the registration certificate or the permit should not be refused, suspended or cancelled, as the case may be.

Hearing

(4) Despite subsection (3), where a collector, a holder of a registration certificate or a holder of a permit under this Act or the regulations fails to deliver a return as required by this Act and the regulations or fails to remit the tax payable by the person, the Minister may, by notice in writing to the person stating the reasons therefor, suspend forthwith the designation, registration certificate or permit, but the person may, within 180 days of the service of the notice, request a hearing before the Minister on a day to be fixed not more than ten days from the date of the receipt of the request by the Minister, to determine whether the suspension may be rescinded and, if so, upon what conditions the suspension may be rescinded.

Suspension forthwith

(5) A notice under subsection (1), (2) or (4) is properly served by personal service or by registered mail sent to the last known address of the person referred to in the subsection.

Service of notice

4a.—(1) The Minister may demand information or additional information from any person for the purposes of evaluating the suitability of a person to be a collector, registered importer, or exporter, or to hold a permit to mark or stamp cigarettes or to purchase and sell unmarked cigarettes, or to ascertain the amount of security to be furnished by a person in accordance with subsection (2) and the person shall deliver the information or further information the Minister requires within the time specified in the Minister's demand.

Information

(2) The Minister may demand security in a form acceptable to the Minister from,

Security

- (a) every collector in an amount equivalent to the average three months' tax collectable and payable by the collector calculated for the twelve-month period preceding the date of the Minister's demand, or \$1,000,000, whichever is the greater;
- (b) every importer who acquires marked cigarettes outside Ontario for distribution in Ontario, in an amount equal to the greater of \$500,000 or the average three months' tax that would be collectable and payable by the importer calculated on the basis of the twelve-month period immediately preceding the date of the Minister's demand, if the cigarettes were sold to a consumer in Ontario in the twelve-month period;
- (c) every exporter in an amount specified by the Minister upon the forwarding to the Minister of information required in respect of tobacco to be exported for the purposes of subsection 3b (9);
- (d) every person who applies for or is the holder of a permit to mark cigarettes in an amount equal to the greater of \$1,000,000 or the average three months' tax that would be collectable and payable by the person calculated on the basis of the twelve-month period preceding the Minister's demand if the production of marked cigarettes were sold to consumers in Ontario during the twelve-month period;
- (e) every person who applies for or is the holder of a permit to stamp cigarettes in an amount equal to the greater of \$500,000 or the average three months' tax that would be collectable and payable by the person calculated on the basis of the twelve-month period preceding the Minister's demand if the production of stamped cigarettes were sold to consumers in Ontario during the twelve-month period; and
- (f) every person who applies for or is the holder of a permit to purchase or sell unmarked cigarettes in an amount equal to the greater of \$500,000 or the average three months' tax that would be collectable or payable by the person calculated on the basis of the twelve-month period preceding the Minister's demand, if the person's acquisition of unmarked cigarettes were marked cigarettes that were sold to consumers in Ontario during the twelve-month period.

(3) Every person shall, upon receipt of a demand under subsection (2), forthwith furnish the amount of security to the Minister. Idem

(4) The Minister may, at any time, increase or decrease the amount of security furnished or to be furnished under subsection (2). Idem

(5) Where the Minister has, under this Act, assessed any person who has provided security under subsection (2), all or any part of the security may be paid into the Consolidated Revenue Fund in satisfaction of all or any part of the person's assessed liability. Application of security

7. Section 9 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 85, is repealed and the following substituted:

9.—(1) Every collector, importer, exporter, interjurisdictional transporter, wholesaler, manufacturer, or holders of a permit to mark or stamp cigarettes or to purchase and sell unmarked cigarettes, or holder of a transit permit shall deliver to the Minister such returns as the Minister requires for the purpose of this Act, Returns by collectors, etc.

- (a) without notice or demand at the time and in the manner prescribed; or
- (b) on or before the day designated in the demand of the Minister served by personal service or by registered mail.

(2) Every return shall be verified by the certificate of the person required to file the return, and if the person is not an individual, of its president or resident manager or representative in Ontario, that the financial and other statements of information included in or attached to the return are in agreement with the books of the person and contain true, correct and complete information for the period covered by the return. Idem

(3) Every person who fails to make a return as required under subsection (1) shall pay a penalty, when assessed therefor, of 10 per cent of the tax collectable and the tax payable by the person, to a maximum of \$50,000 in respect of each return. Penalty

(4) Every person who fails to make a return as required under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than 5 Offence

per cent of the amount of tax that would have been reported had the person's return been properly completed and filed.

Offence

(5) Every person who fails to complete the information required in a return required under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000.

Enlargement
of time

(6) The Minister may enlarge the time for making a return before or after the time for making it.

Declarations
and affidavits

(7) Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath or affirmation, or before any person specifically authorized for that purpose by the Lieutenant Governor in Council, but a person so specifically authorized shall not charge a fee therefor.

8. Section 9a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 41, section 2, is repealed and the following substituted:

Transmission
of tax

9a.—(1) Every collector or importer shall, with the return required under subsection 9 (1), transmit the tax payable or payable and collectable by the collector or importer.

Deficiency

(2) A collector or importer who transmits less than the amount of tax payable or payable and collectable by the collector or importer shall pay to the Treasurer interest at the prescribed rate upon the deficiency from the date of default until the date of transmission of the deficiency to the Treasurer.

Refund of
tax claimed

(3) Despite subsection (1), a collector may retain the amount of a refund for which the collector has made application under this Act or the regulations until the refund for which the collector has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to the collector.

Repayment
of refund
taken

(4) Despite subsection (3), upon receiving a statement of disallowance under subsection 10 (2a) in respect of the application referred to in subsection (3), the collector shall, with the collector's next return or at such earlier time as is specified in the statement of disallowance, whether or not an objection or appeal therefrom has been made or taken, transmit to the Treasurer the amount of any refund refused, together with interest thereon at the rate prescribed for the period during which the amount was retained by the collector and, upon being notified of the approval of any refund

claimed, the collector may, subject to section 27, retain the amount so approved.

(5) Subsection (3) only applies to a collector, who, in a return filed by the collector in accordance with this Act and the regulations, shows that tax under this Act is to be remitted by the collector and who, at the time the return is delivered to the Minister, has also applied for a refund under this Act or the regulations.

Application
of subs. (3)

(6) Every person who is required to pay over to a collector or registered importer or to remit to the Treasurer the tax imposed by this Act and who fails to pay over or remit the tax is guilty of an offence and on conviction is liable to a fine of not less than an amount equal to 25 per cent of the tax and not more than an amount equal to twice the amount of the tax that should have been paid over or remitted.

Offence

9.—(1) Section 10 of the Act, as amended by the Statutes of Ontario, 1985, chapter 22, section 3, is further amended by adding the following subsection:

(1a) Every person who fails to collect tax that the person is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to not more than twice the amount the person failed to collect.

Penalty

(2) Subsection 10 (2) of the Act is amended by striking out “consumer or dealer” in the third line and substituting “collector, importer, exporter, wholesaler, retail dealer, consumer, interjurisdictional transporter, holder of a permit to mark or stamp cigarettes or holder of a transit permit”.

(3) Subsections 10 (3) and (4) of the Act are amended by inserting after “(1)” in the second line in each instance “(1a)”.

(4) Section 10 is further amended by adding the following subsection:

(9) No penalty under subsection (1a) shall be made with respect to tax that should have been collected more than four years before the date of the assessment under subsection (1a), except that, where the Minister establishes that the person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, the Minister may, where the Minister considers it expedient, impose the penalty provided under subsection (1a) for tax

Limitation

that should have been collected more than four years before the date of assessment.

10.—(1) Subsection 12 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 22, section 4, is amended by striking out “interest or penalty” in the first and second lines and substituting “or interest, or the assessment or payment of a penalty”.

(2) Subsection 12 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 22, section 4, is amended by inserting after “disallowance” in the second and third lines and in the fourth line “or penalty”.

11.—(1) Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 22, section 5 is further amended by striking out “or statement of disallowance” in the amendment of 1985 and substituting “statement of disallowance or penalty”.

(2) Subsection 13 (8) of the Act is amended by inserting after “tax” in the second line “or penalty”.

12.—(1) Section 14 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 3 and 1985, chapter 22, section 6, is further amended by adding the following subsection:

Idem

(1a) Every holder of a permit to mark or stamp cigarettes shall permit any person authorized for the purpose by the Minister to enter any mark-point or designated warehouse operated by the holder during normal business hours and the authorized person may,

- (a) audit or examine any books and records and any account, voucher, letter, telegram or other document that is kept at the mark-point;
- (b) examine the property described in an inventory or any other property, process or matter, the examination of which may, in the person's opinion, assist in determining the accuracy of an inventory or in ascertaining information that is or should be in the books or records or in a return, or the amount of any tax imposed by this Act; and
- (c) examine any inventory of,
 - (i) marked or unmarked cigarettes,

- (ii) used or unused indicia, and
- (iii) used or unused containers or materials designed to pack cigarettes.

(2) Subsection 14 (2) of the Act is amended by inserting after “information” in the fourth line “additional information, a return, a more complete or sufficient return”.

(3) Section 14 is further amended by adding the following subsection:

(3) Any person who fails or refuses to keep adequate books of account and other records for the purpose of ascertaining the amount of tax payable or payable and collectable by the person may be required, upon notice by the Minister by registered letter, to keep such books of account and records as the Minister specifies in the notice for such length of time as the Minister requires.

Demand to
keep records

13. Section 15 of the Act is repealed and the following substituted:

15.—(1) For any purpose relating to the administration and enforcement of this Act and the regulations, any person authorized for the purpose by the Minister,

Detention of
vehicles, etc.

- (a) may, without warrant, stop and detain any vehicle, including any trailer attached to the vehicle, any vessel, railway equipment on rails or aircraft;
- (b) may examine the contents thereof including any cargo, manifests, records, accounts, vouchers, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations; and
- (c) subject to subsection (2), may seize and take away any of such manifests, records, accounts or vouchers and retain them until they are produced in any court proceedings.

(2) Where documents are seized under subsection (1), the Minister shall, within fourteen days, make application to a justice, as defined in the *Provincial Offences Act*, for an order to permit the retention of the documents until they are produced in any court proceeding, and the application may be heard and the order may be made, both without notice, upon receipt of information under oath from a person who believes on reasonable and probable grounds that the documents

Application
for retention
of documents
R.S.O. 1980,
c. 400

afford evidence of the commission of an offence under this Act.

Seizure and
disposal of
tobacco in
bulk

(3) Where, following a detention under subsection (1), tobacco in bulk is found in the control of a person who has not been designated a collector, does not hold a registration certificate issued under subsection 3b (1) or 3d (1), does not hold a permit issued under subsection 3 (3), 3e (2) or 3f (1), or is being transported or stored in Ontario by or for such a person, any person authorized for the purpose by the Minister may, subject to subsections (4), (5) and (6), seize, impound, hold and dispose of the tobacco.

Saving

(4) Despite subsection (3), no seizure, impounding, holding or disposal shall be made if the person in control of the tobacco in bulk detained under subsection (1),

(a) is an interjurisdictional transporter;

(b) holds a wholesaler's permit under subsection 3 (1) and can provide proof satisfactory to the person authorized by the Minister for the purposes of subsection (3) that the tobacco in bulk was purchased from a collector;

R.S.O. 1980,
c. 454

(c) holds a vendor's permit issued under the *Retail Sales Tax Act* and can provide proof satisfactory to the person authorized by the Minister that the tobacco in bulk was purchased from a registered wholesaler; or

(d) has in the person's possession a transit permit issued to the owner of the tobacco in bulk under subsection 3g (1).

Application

(5) Tobacco in bulk seized under subsection (3) is forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the tobacco in bulk was seized, or the owner of the tobacco in bulk, applies to the Supreme Court to establish the right to possess the tobacco in bulk.

Right to
possession of
tobacco in
bulk

(6) For the purposes of an application under subsection (5), the applicant has the right to possession of the tobacco in bulk if the owner, or the person for whom the tobacco in bulk was being transported, was, at the time the seizure was made, a person specified in subsection (3) or (4) as someone from whom tobacco in bulk was not to be seized.

(7) Where, on an application under subsection (5), the court is satisfied that the applicant has the right to possession of the tobacco in bulk, the court may order that the tobacco in bulk be returned to the applicant or that the proceeds of sale of the tobacco in bulk be paid to the applicant.

Order

(8) Where a final order has not been made under subsection (7) within sixty days after the filing of the application under subsection (5), the Minister may dispose of the tobacco in bulk and retain the proceeds pending the determination of the application.

Disposal
pending final
determination
by court

(9) Upon dismissal of an application under subsection (5) and the expiry of the appeal period provided therefor, the tobacco in bulk is forfeited to Her Majesty to be disposed of as the Minister directs.

Forfeiture
after
dismissal of
application

(10) Where a sale of tobacco in bulk is directed under subsection (5) or (9), or where the proceeds of a sale are retained under subsection (8) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the tobacco in bulk shall be paid into the Consolidated Revenue Fund.

Proceeds of
sale

(11) For the purposes of this section, "vehicle" means a motor vehicle that has more than two axles or more than four wheels, or that is designed by the manufacturer thereof to carry in its enclosed non-passenger space more than 2.548 cubic metres of cargo, and includes any vehicle that is attached to a trailer that is not a house trailer, boat trailer or camper trailer that is being used for the purpose for which it was designed.

Definition

(12) Every person from whom tobacco in bulk is seized under subsection (3) shall pay a penalty, when assessed therefor, equal to three times the tax that would be payable under subsection 2 (1) were the tobacco sold to a consumer in Ontario, or where tobacco in bulk includes unmarked cigarettes, three times the tax that would be payable were the cigarettes marked cigarettes sold to a consumer in Ontario.

Penalty

(13) No penalty shall be assessed under subsection (12) in respect of any person where an order has been made under subsection (7).

Saving

14. The Act is further amended by adding the following section:

Use of
remedy

17a. The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any lien charge or priority under this Act or otherwise.

15. Clauses 18 (3) (b) and (c) of the Act are amended by striking out “dealer or consumer” wherever they occur and substituting in each instance “collector, importer, exporter, interjurisdictional transporter, consumer, wholesaler, retail dealer or holder of a permit to mark or stamp cigarettes”.

16. Section 19 of the Act is repealed and the following substituted:

Prohibition,
unmarked
cigarettes

19.—(1) No person shall, unless permitted under this Act or the regulations to do so, have in the person’s possession any unmarked cigarettes for the purposes of sale.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than thirty cents for each unmarked cigarette in that person’s possession, and all unmarked cigarettes found in the person’s possession shall be ordered forfeited to Her Majesty.

Penalty

(3) Every person who, except as permitted under this Act or the regulations, sells or offers for sale or keeps for sale in Ontario unmarked cigarettes shall pay a penalty, when assessed therefor, on all unmarked cigarettes so sold, offered for sale or kept for sale, equal to three times the amount of tax payable under section 2 were the cigarettes marked cigarettes sold to consumers in Ontario.

Penalty

(4) Every person who, except as permitted under this Act or the regulations, purchases or receives for sale any unmarked cigarettes shall pay a penalty, when assessed therefor, on all unmarked cigarettes so purchased or received for sale, equal to three times the amount of tax payable under section 2 were the cigarettes marked cigarettes sold to consumers in Ontario.

17. Section 22 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 5, is repealed and the following substituted:

Communi-
cation of
information

22.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act;
- (b) knowingly allow any person to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) Despite any other Act, but subject to subsection (3), no person employed by the Government of Ontario shall be required, in connection with any legal proceeding,

Officials not
compellable
as witnesses

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections (1) and (2) do not apply in respect of,

Exceptions
for legal
proceedings

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection of tax under this Act.

(4) A person employed by the Government of Ontario may, in the course of the person's duties in connection with the administration and enforcement of this Act,

Exception for
internal
adminis-
tration

- (a) communicate or allow to be communicated to any other person employed by the Government of Ontario in the administration and enforcement of any laws related to the raising of revenue or the registration of any person for provincial purposes any information obtained by or on behalf of the Minister under this Act; and
- (b) allow any person employed in the administration and enforcement of any laws relating to the raising of revenues or the registration of any person for provincial purposes or any law enforcement official of the Government of Ontario, of Canada or of any other province or territory of Canada to inspect or

have access to any record or thing obtained by or on behalf of the Minister under this Act,

if the information, record or thing obtained by the person that affects the administration and enforcement of this Act is communicated or furnished on a reciprocal basis to the Minister, and the information, record or thing will only be used for the administration or enforcement of this Act or an Act that is administered or enforced by the official or the person receiving the information, record or thing.

Exception for
objection and
appeal

(5) Despite anything in this Act, the Minister may permit a copy of any record or thing obtained under this Act to be given to,

- (a) the person from whom the record or thing was obtained; or
- (b) any person,
 - (i) for the purpose of an objection or appeal taken by the person under this Act in connection with which the record was obtained, or
 - (ii) by whom any amount payable under this Act is payable or has been paid; or
- (c) the legal representative of any person referred to in clause (a) or (b) or the agent of the legal representative authorized in writing.

Exception for
tax
enforcement
in other
jurisdictions

(6) The Minister may communicate or allow to be communicated any information, record or thing obtained under this Act or allow inspection of or access to any written statement furnished under this Act to any person employed by any government, provided that the information, record or thing and the written statements obtained by such government for the purposes of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and if the information, record or thing and the written statements will not be used for any purpose other than the administration or enforcement of a tax law.

Exception for
tax policy
information

(7) Notwithstanding anything in this Act, the Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics information obtained under this Act solely for the purpose of evaluating and formulating tax policy.

(8) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Offence

18. The Act is further amended by adding the following sections:

22a.—(1) No person shall affix an Ontario tax indicium to a package of cigarettes or to the tear-tape of a package of cigarettes or to a carton, case or container of any description for tobacco for sale to a consumer outside Ontario. No indicia
outside
Ontario

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$500,000. Offence

22b.—(1) Every person who affixes to a package of cigarettes or the tear-tape of a package of cigarettes a false, forged, fraudulent, spurious or counterfeit indicium or an indicium that has been used before, or who prints on a package, carton, case or container of any description for packaging cigarettes a false, forged, fraudulent, spurious or counterfeit indicium is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$100,000 or to imprisonment for a term of not more than two years, or to both. Offence

(2) Every holder of a permit to mark or stamp cigarettes or dealer who possesses cigarettes contained in a package, carton or case that has previously been used as a marked package, carton or case under this Act or the regulations or contained in packages, cartons or cases that have been fraudulently marked shall pay a penalty, when assessed therefor on a first such assessment, of \$10 for each package, \$80 for each carton and \$500 for each case, and a penalty on each subsequent assessment of \$50 for each package, \$400 for each carton and \$2,500 for each case. Penalty

19. Subsection 23 (2) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 72, section 85, is amended by striking out “according to the regulations” in the second and third lines and substituting “or who is not an importer holding a registration certificate under section 3b or a wholesaler holding a permit under section 3”.

20. Section 24 of the Act is amended by striking out “three” in the second line and substituting “six”.

21. Section 25 of the Act is repealed and the following substituted:

Reciprocal
arrangements

25. For the purposes of simplifying compliance with this Act and the administration and collection of the tax imposed by this Act and in order to provide reciprocal arrangements to settle claims for tax on the acquisition and use of tobacco by persons carrying on business in more than one province or territory of Canada, the Lieutenant Governor in Council may, on the recommendation of the Minister and on such terms and conditions as are considered necessary and expedient, enter into an agreement with any province or territory of Canada that tax paid to one jurisdiction on the acquisition there of tobacco that is transferred to the other jurisdiction may be paid by one jurisdiction to the other in reduction of the liability to the tax arising in the jurisdiction receiving the payment and in lieu of refunding the tax to the person who paid it and who became liable for similar tax in the other jurisdiction.

22. The Act is further amended by adding the following section:

Refund on
exports of
tobacco

26a.—(1) Where a person exports tobacco from Ontario, the Minister may refund to the person any amount paid on account of tax in respect of the tobacco if,

- (a) the person holds a registration certificate issued under subsection 3b (1) as an exporter;
- (b) the tobacco was exported for the purpose of sale; and
- (c) the application for the refund is supported by,
 - (i) invoices verifying the purchase of the tobacco and the payment of the amounts on account of the tax,
 - (ii) documentary evidence acceptable to the Minister that the tobacco exported from Ontario was delivered to a purchaser in another jurisdiction, and
 - (iii) a certification by the jurisdiction into which the tobacco was delivered for consumption that tax was paid to that jurisdiction on the tobacco exported from Ontario or that the consumers of the tobacco were not liable to pay tax on the tobacco purchased by them.

Limitation

(2) A refund under this section shall not be made unless an application therefor is received by the Minister within three years of the date when the amount on account of the tax, a

refund of which is sought, was paid and it is established to the satisfaction of the Minister that the applicant is entitled to the refund claimed.

(3) Where an applicant for a refund under this Act has misrepresented a material fact on or in connection with an application for a refund, a return where an amount was retained by the applicant under subsection 9a (3) or in an invoice supporting the application or return, the Minister may, ^{Penalty}

- (a) deny all or any part of the refund; and
- (b) impose a penalty, upon assessment therefor, of an amount equal to or less than the amount of the refund denied.

22.—(1) Clause 28 (1) (g) of the Act is repealed and the following substituted:

- (g) governing the activities of those who are required or permitted to hold permits or registration certificates under this Act.

(2) Clause 28 (1) (o) of the Act is repealed and the following substituted:

- (o) prescribing any matter required by this Act to be prescribed or referred to in this Act as prescribed.

(3) Subsection 28 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 6, 1983, chapter 25, section 2 and 1988, chapter 65, sections 3 and 4, is further amended by adding the following clauses:

- (p) providing a system for the sale of unmarked cigarettes to classes of persons who are exempt from the payment of the tax imposed by this Act, including the limitation on the quantity of unmarked cigarettes to be sold to retail dealers for resale to such consumers;
- (q) providing for the furnishing to the Minister of information related to the sale or delivery of tobacco products that are exempt from the tax imposed by this Act or that are delivered to classes of persons who are exempt from the payment of the tax imposed by this Act;

- (r) authorizing any person to collect tax or security for the tax imposed by this Act and regulating the time and manner of such collection.

(4) Clauses 28 (2) (b) and (c) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 4, section 6, are repealed and the following substituted:

- (b) prescribing, defining, designating or determining anything that the Minister is permitted or required by this Act to prescribe, define, designate or determine;
- (c) prescribing the responsibilities of holders of permits to mark or stamp cigarettes for the receipt, use of and the accounting for indicia.

Commence-
ment

23.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the 1st day of May, 1990.

Idem

(2) Sections 5 and 6 and subsection 12 (1) shall be deemed to have come into force on the 1st day of March, 1990.

Idem

(3) Subsection 2 (1) comes into force on the 25th day of April, 1990.

Short title

24. The short title of this Act is the *Tobacco Tax Amendment Act, 1990*.

Bill 160

(Chapter 13
Statutes of Ontario, 1990)

An Act to amend the Tobacco Tax Act

The Hon. R. Mancini
Minister of Revenue



<i>1st Reading</i>	April 24th, 1990
<i>2nd Reading</i>	June 28th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 160

1990

An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (a) of the *Tobacco Tax Act* is amended by striking out “but does not include a dealer” in the twelve and thirteenth lines. R.S.O. 1980,
c. 502

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 1 and 1985, chapter 22, section 1, is further amended by adding the following clauses:

(ba) “designated warehouse” means a location designated by the Minister for the purpose of storing unmarked cigarettes;

(bb) “exporter” means a person who takes or causes to be taken out of Ontario tobacco in bulk and who may be accountable for the tax on such tobacco to the jurisdiction receiving the tobacco;

(bc) “importer” means a person who brings or causes to be brought into Ontario tobacco in bulk;

(bd) “interjurisdictional transporter” means the operator of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the operator of an aircraft who engages in the transportation of tobacco in bulk and who operates for such purposes,

(i) one or more motor vehicles licensed or required to be licensed under the *Highway Traffic Act* inside and outside Ontario, R.S.O. 1980,
c. 198

(ii) one or more vessels under the *Canada Shipping Act*, R.S.C. 1985,
c. S-9

R.S.C. 1985,
c. A-2
1987, c. 34
(Can.)

(iii) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or

(iv) aircraft, the operator of which is approved as a carrier of goods or passengers under the *Aeronautics Act* (Canada) or regulations made thereunder, or the *National Transportation Act, 1987* (Canada), or regulations made thereunder,

and includes the consignee or consignor of tobacco in bulk who is not the holder of a permit to mark cigarettes;

(be) “manufacturer” means a person who manufactures, fabricates or produces tobacco products for distribution, sale or storage in Ontario;

(bf) “marked cigarettes” mean packages of cigarettes, cartons and cases that are marked or stamped with an indicium as required under the regulations;

(bg) “mark-point” means a location designated by the Minister for the purposes of marking cigarettes;

.

(ca) “motor vehicle” means a machine operated, propelled or driven otherwise than by muscular power;

(cb) “operator” means, when used with reference to a motor vehicle other than a motor vehicle designed for use as a vessel, an aircraft or railway equipment operated on rails,

(i) the registered owner, provided the motor vehicle is not leased to another person or, if leased, that the period of the lease is less than thirty-one consecutive days, or

(ii) the lessee, if the motor vehicle is leased for more than thirty consecutive days;

.

(da) “prescribed” means prescribed by the regulations;

(db) "registered importer" means an importer to whom a registration certificate has been issued under this Act;

(dc) "registered wholesaler" means a wholesaler to whom a wholesaler's permit has been issued under this Act;

.

(ga) "tax" includes penalties and interest;

.

(ha) "tobacco in bulk" means 10,000 or more cigarettes, 200 or more cigars, or ten kilograms or more of any tobacco, other than cigarettes or cigars.

(3) Clause 1 (j) of the Act is repealed and the following substituted:

(j) "wholesaler" means a person who sells in Ontario tobacco for the purpose of resale, and includes a person who operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by another person.

2.—(1) Clauses 2 (1) (a) and (b) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 65, section 1, are repealed and the following substituted:

(a) 4.83 cents on every cigarette purchased by the consumer;

(b) 4.83 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars purchased by the consumer; and

.

(2) Subsection 2 (2) of the Act is amended by striking out "prescribed by the regulations" in the fifth line and substituting "provided under this Act".

(3) Subsection 2 (4) of the Act is amended by adding at the end thereof "and, for the purposes of the assessment and collection of such payment, the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a collector".

(4) Subsection 2 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 17, section 1, is repealed and the following substituted:

Assignment
of book
debts

(5) Where a collector or a registered importer has made an assignment of his or her book debts, whether by way of specific or general assignment, or in any other manner disposes of his or her present or future right to collect his or her book debts, the assignment does not include the portion of the book debts that the collector or importer, as agent for the Minister, charged the person to whom he or she sold the tobacco as tax under this Act, and any such assignee or any other person who collects the book debts shall be deemed to be a collector under this Act and shall collect, remit and account under this Act and the regulations for the unassigned portion.

(5) Section 2 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 2, 1982, chapter 17, section 1, 1983, chapter 25, section 1, 1985, chapter 22, section 2, 1986, chapter 41, section 1 and 1988, chapter 65, section 1, is further amended by adding the following subsections:

Liability for
tax

(6) Every consumer is liable for the tax imposed by this Act until the consumer has paid it.

Offence

(7) Every person who knowingly fails to pay the tax imposed by this section when required by this Act to do so is guilty of an offence and on conviction is liable to a fine of not less than \$200 and, if greater, not more than double the amount of the tax payable by that person.

Offence

(8) Every person who fails to comply with subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$50,000.

3. Section 3 of the Act is repealed and the following substituted:

Wholesaler's
permit

3.—(1) No person shall sell or deliver in Ontario tobacco for resale unless the person holds a wholesaler's permit issued to the person in such form and manner as the Minister requires.

Conditions
and
restrictions

(2) The Minister may, as a requirement for the issuance of a wholesaler's permit, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Wholesaler's
permit
required

(3) No person shall purchase or receive delivery in Ontario of tobacco from a wholesaler who does not hold a whole-

saler's permit issued under this section or from an importer who does not hold a registration certificate issued under this Act.

(4) No wholesaler shall sell or deliver in Ontario tobacco to a person who does not hold a vendor's permit issued to the person under the *Retail Sales Tax Act*.

Sale to retail dealer

R.S.O. 1980, c. 454

(5) No person shall sell or deliver in Ontario tobacco to a consumer unless the person holds a vendor's permit issued to the person under the *Retail Sales Tax Act*.

Vendor's permit required

(6) Every wholesaler shall forthwith notify the Minister in writing of all changes in the name or nature of the wholesaler's business or of the termination of the business.

Change of business

(7) Every person who,

Offence

- (a) operates as a wholesaler without obtaining a wholesaler's permit required under this section; or
- (b) being the holder of such a permit contravenes any condition or restriction contained in the permit or any other requirements specified in this section,

is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus, in respect of a conviction under clause (a), to a fine of not less than three times the tax imposed on consumers under section 2 on all tobacco sold by the person during the period the person did not hold a wholesaler's permit.

4.—(1) Section 3a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 65, section 2, is amended by striking out "prescribed by the regulations" in the fifth line and substituting "provided under this Act".

(2) Section 3a is further amended by adding the following subsections:

(2) Every collector shall collect the tax collectable and payable under this Act from every person to whom the collector sells or delivers tobacco in Ontario, and shall remit the tax, as well as the tax, if any, on all tobacco in respect of which the collector is a consumer, to the Treasurer at the times and in the manner required by this Act and the regulations.

Collection of tax by collector

(3) Subsection (2) does not apply to require a collector to collect tax under this Act on the sale by the collector of

Sale to another collector

tobacco to another collector who is not a consumer in respect of the tobacco.

Collection of
tax by retail
dealer

(4) Every retail dealer who is not a collector or a registered importer shall collect the tax on tobacco sold or delivered by the retail dealer to a consumer and pay the tax over to the collector, registered importer or registered wholesaler from whom the retail dealer purchased tobacco.

Collection of
tax by
wholesaler

(5) Every wholesaler who is not a collector or registered importer shall collect, as agent for the Minister, the tax imposed by this Act from the retail dealer to whom the wholesaler sells or delivers tobacco and shall pay the tax over to the collector or registered importer from whom the wholesaler purchased the tobacco.

Collection of
tax by
importer

(6) Every importer shall collect, as agent for the Minister, the tax collectable or payable under this Act from every person to whom the importer sells or delivers tobacco in Ontario, and shall remit the tax, as well as the tax, if any, in respect of which the importer is a consumer, to the Treasurer at the times and in the manner required by this Act and the regulations.

Agreements

(7) For the purpose of ensuring and facilitating the collection of tax under this Act, the Minister may enter into such arrangements and agreements as the Minister considers appropriate.

Offence

(8) Every collector, importer, wholesaler or retail dealer who refuses or neglects to collect tax in accordance with this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that such person refused or neglected to collect, plus a fine of not less than \$500 and not more than \$10,000.

5. The Act is amended by adding the following sections:

Registration
certificate,
importer or
exporter

3b.—(1) Every importer of tobacco in bulk into Ontario and every exporter of tobacco in bulk out of Ontario shall apply for and the Minister shall issue a registration certificate in such form and manner as the Minister requires.

Conditions
and
restrictions

(2) The Minister may, as a requirement for the issuance of a registration certificate, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Collection of
tax

(3) Every registered importer shall, at the times and in the manner required by this Act and the regulations, collect and remit to the Treasurer the tax collectable and payable under

this Act from every person to whom the registered importer has sold tobacco and the tax on all tobacco in respect of which the registered importer is a consumer.

(4) Subsection (3) does not apply to require a registered importer to collect tax under this Act on the sale of tobacco by the registered importer to a collector who is not a consumer in respect of the tobacco.

Sales to collector

(5) Every registered importer is deemed to be an agent of the Minister to collect the tax imposed by this Act from every person to whom the registered importer sells tobacco.

Agent to collect tax

(6) Every dealer who purchases or acquires tobacco from an importer who does not hold a registration certificate issued to the importer under this section shall, at the time and in the manner prescribed, remit to the Treasurer the tax collectable and payable on the tobacco purchased or acquired by the dealer.

Non-registered importer

(7) Every registered importer or exporter who is an inter-jurisdictional transporter shall keep in the possession of the driver of any motor vehicle operated on behalf of the importer or exporter a notarial copy of the registration certificate issued to the importer or exporter.

Inter-jurisdictional transporter

(8) A registered importer or exporter shall provide an interjurisdictional transporter transporting the importer's or exporter's tobacco with a notarial copy of the registration certificate issued to the importer or exporter.

Idem

(9) Every exporter shall forward to the Minister the prescribed information in respect of the tobacco to be exported in the prescribed form and manner.

Export of tobacco

(10) Following delivery of the tobacco by the exporter to a location outside Ontario, the exporter shall file the required return in the prescribed manner and provide evidence satisfactory to the Minister that the tobacco has been exported out of Ontario.

Return by exporter

(11) An exporter who fails to comply with subsections (9) and (10) shall pay a penalty, when assessed therefor, on the tobacco exported or to be exported equal to the tax that would be payable on the tobacco exported or to be exported had it been sold to a consumer in Ontario.

Penalty

(12) Every importer or exporter shall forthwith notify the Minister in writing of all changes in the name or nature of the

Notification

importer's or exporter's business or of the termination of the business.

Offence

(13) Every person who operates as an importer or exporter in Ontario without holding a registration certificate required by this section, or who contravenes any condition or restriction contained in the registration certificate issued to the person or who contravenes any other requirement specified in this section is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus, in respect of a conviction for operating as an importer or exporter without holding a registration certificate, to a fine of not less than three times the tax payable by consumers under section 2 on all tobacco imported into or exported out of Ontario by the person during the period the person did not hold a registration certificate.

Offence

(14) Every person who purchases or receives tobacco from an importer who does not hold a registration certificate issued under this Act is guilty of an offence and on conviction is liable to a fine of not less than the tax payable by a consumer under section 2 on the tobacco so purchased by the person.

Registration
certificate

3c.—(1) Every interjurisdictional transporter shall apply for and the Minister shall issue a registration certificate in such form and manner as the Minister requires.

Conditions
and
restrictions

(2) The Minister may, as a requirement for the issuance of a registration certificate, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Uniform
manifest
form

(3) Every interjurisdictional transporter shall complete a uniform manifest form provided by the Minister in respect of every shipment of tobacco in bulk transported by the interjurisdictional transporter into or out of Ontario.

Transporter
to obtain
certificate

(4) Before undertaking to transport tobacco in bulk into or out of Ontario, an interjurisdictional transporter shall obtain the notarial copy of the registration certificate required to be provided under subsection 3b (8).

Possession of
documents

(5) When transporting tobacco in bulk, every interjurisdictional transporter shall keep in the possession of the driver of the motor vehicle in which the tobacco in bulk is being transported,

- (a) the interjurisdictional transporter's registration certificate issued under subsection (1);

- (b) a uniform manifest form completed in accordance with subsection (3); and
- (c) if the tobacco in bulk is being transported for an importer or exporter, the notarial copy of the registration certificate obtained in accordance with subsection (4) or the transit permit issued under subsection 3g (1) to the owner of the tobacco in bulk being transported.

(6) Where any person authorized for the purpose by the Minister has reasonable cause to believe that an interjurisdictional transporter does not hold a registration certificate or is transporting tobacco in bulk on behalf of an exporter who does not hold a registration certificate issued under section 3b, the person may, without a warrant, stop and detain any vehicle being operated in Ontario by the interjurisdictional transporter and require the person to produce for examination the documents specified in subsection (5). Detention of vehicles

(7) Where, following a detention under subsection (6), the person fails to produce the documents specified in subsection (5), a person authorized for the purpose by the Minister may, without a warrant but subject to subsections (8), (9) and (11), seize, impound, hold and dispose of the tobacco, unless the interjurisdictional transporter complies with subsection (9). Seizure, etc., of tobacco

(8) Despite subsection (7), no seizure, impounding, holding or disposal shall be made if the driver of the vehicle detained under subsection (6) provides proof satisfactory to the person making the detention, No seizure, etc.

- (a) that the driver holds a registration certificate issued under subsection (1);
- (b) as to the quantity and destination of the tobacco being transported; and
- (c) that the importer or exporter for whom the tobacco is being transported, if such is the case, holds a registration certificate under subsection 4a (1) or holds a transit permit issued under subsection 3g (1) to the owner of the tobacco being transported.

(9) Tobacco seized under subsection (7) shall be forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the tobacco was seized, or the owner of the tobacco, pays to the Treasurer an amount, as a penalty, equal to Penalty

the tax that would be payable under subsection 2 (1) if the tobacco were sold to a consumer in Ontario.

Application

(10) Where tobacco has been seized under subsection (7) and the person from whom the tobacco has been seized, or the owner of the tobacco, claims to have the right to possession of the tobacco, the person or owner may apply within thirty days following the seizure, to the Supreme Court to establish the right to possession of the tobacco.

Right to possession

(11) For the purposes of an application under subsection (10), the applicant has the right to possession of the tobacco if,

- (a) the driver of the vehicle, when the tobacco was seized, held a notarial copy of the registration certificate issued under this Act to the interjurisdictional transporter;
- (b) in the case of tobacco transported on behalf of an importer or exporter, the driver of the vehicle, when the tobacco was seized, held a notarial copy of the registration certificate issued under this Act to the importer or exporter or held a notarial copy of the transit permit issued under this Act to the owner of the tobacco; and
- (c) the driver of the vehicle, when the tobacco was seized, held a uniform manifest form completed in accordance with this Act, or the operator of the vehicle delivered the completed uniform manifest form to the Minister within five days of the seizure.

Disposition of application

(12) If, upon application under subsection (10), the court is satisfied that the applicant has the right to possession of the tobacco, the court may order the tobacco be returned to the applicant or that the proceeds of sale of the tobacco be paid to the applicant.

Disposal of tobacco pending disposition

(13) If a final order is not made under subsection (12) within sixty days after the filing of the application under subsection (10), the Minister may dispose of the tobacco and retain the proceeds pending the determination of the application.

Forfeiture of tobacco

(14) Upon dismissal of the application under subsection (12) and the expiry of the appeal period therefrom, the tobacco is forfeited to Her Majesty to be disposed of as the Minister directs.

(15) If a sale of tobacco is directed under subsection (9) or (14) or if the proceeds of the sale are retained under subsection (13) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the tobacco and after payment of the penalty under subsection (9) shall be paid to the person from whom the tobacco was seized or to the owner of the tobacco.

Payment of
proceeds of
sale

(16) Every interjurisdictional transporter transporting tobacco in bulk into or out of Ontario who fails to produce any of the documents required to be kept in the possession of the driver under subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000 for each document not produced.

Offence

3d.—(1) Every manufacturer shall apply for and the Minister shall issue a registration certificate in such form and manner as the Minister requires.

Registration
certificate

(2) The Minister may, as a requirement for the issuance of a registration certificate, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Conditions
and
restrictions

(3) Every manufacturer shall forthwith notify the Minister of all changes in the name or nature of the manufacturer's business or of the termination of the business.

Change of
business

(4) Every person who operates as a manufacturer in Ontario without holding a registration certificate required by this section, or who, being the holder of a registration certificate, contravenes any condition or restriction contained in the registration certificate or any other requirement specified in this section, is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus, in respect of a conviction for operating as a manufacturer without holding a registration certificate, to a fine of not less than an amount equal to three times the tax imposed on consumers under section 2 on all tobacco manufactured by the person during the period the person did not hold a registration certificate.

Offence

3e.—(1) No person shall sell to a consumer required to pay tax under this Act a package of cigarettes or a carton or case that contains packages of cigarettes unless the package, carton or case is marked or stamped in accordance with the regulations.

Prohibition,
sale of
unmarked
package, etc.

Permit to
mark
cigarettes

(2) No person shall mark packages of cigarettes, cartons or cases unless the person holds a permit to mark cigarettes issued to the person under the regulations.

Permit to
stamp
cigarettes

(3) No person shall stamp packages of cigarettes, cartons or cases unless the person holds a permit to stamp cigarettes issued to the person under the regulations.

Idem

(4) The Minister may, as a requirement for the issuance of a permit to mark or stamp cigarettes under the regulations, impose such reasonable conditions and restrictions as the Minister considers appropriate.

Mark-point

(5) The Minister may specify the number and location of mark-points that the holder of a permit to mark or stamp cigarettes may establish and operate and the person shall not mark or stamp cigarettes at any other location.

Storage of
unmarked
cigarettes

(6) No person shall store unmarked cigarettes at a location other than a mark-point or a designated warehouse.

Cancellation
of permit

(7) The Minister may cancel or suspend a permit to mark or stamp cigarettes issued to a person who permits the marking or stamping of cigarettes at a location not specified by the Minister under subsection (5).

Accounting
for indicia

(8) Every holder of a permit to stamp cigarettes shall account for all indicia received from the Minister as required by the regulations.

Penalty

(9) Any indicia for which the holder of a permit to mark or stamp cigarettes fails to account under the regulations shall be deemed to have been affixed to packages of cigarettes or cartons, as the case may be, and sold to consumers liable to pay tax under this Act, and the holder of the permit shall pay a penalty equal to the tax, when assessed therefor.

Offence

(10) Every person who marks or stamps cigarettes without holding a permit issued by the Minister under the regulations, or who, being the holder of a permit, contravenes any condition or restriction contained in the permit or any other requirement specified in this section, is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$10,000, plus, in respect of a conviction for marking or stamping cigarettes without holding a permit, to a fine of not less than an amount equal to three times the tax imposed on consumers under section 2 on all packages of cigarettes or cartons marked by the person during the period that the person did not hold the permit.

(11) Every holder of a permit to mark cigarettes who refuses or neglects to mark packages of cigarettes, cartons or cases in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50,000 and not more than \$1,000,000.

Offence

(12) Every holder of a permit to stamp cigarettes who refuses or neglects to stamp packages of cigarettes, cartons or cases in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$500,000.

Offence

3f.—(1) No person shall purchase, possess, store or sell unmarked cigarettes in Ontario unless the person has applied for and been issued a permit to purchase and sell unmarked cigarettes under the regulations.

Permit to purchase unmarked cigarettes

(2) The Minister may attach such reasonable conditions and restrictions to a permit to purchase and sell unmarked cigarettes as the Minister considers necessary to ensure that the unmarked cigarettes received by the applicant for the permit will be dealt with in accordance with this Act and the regulations.

Conditions and restrictions

(3) Every holder of a permit to purchase and sell unmarked cigarettes shall forthwith notify the Minister in writing of all changes in the name or nature of the person's business or of the termination of the business.

Notification

(4) Every person who, being the holder of a permit to purchase and sell unmarked cigarettes, sells or permits the sale of unmarked cigarettes to another person who is liable to collect or to pay tax under this Act shall pay a penalty, when assessed therefor, equal to the tax on all unmarked cigarettes so sold or permitted to be sold.

Penalty

(5) Every person who, being the holder of a permit to purchase and sell unmarked cigarettes, contravenes this Act or the regulations or any condition or restriction contained in the person's permit is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000, plus a fine of not less than an amount equal to three times the amount of tax, if any, that should have been paid or remitted by the person in compliance with this Act or the regulations.

Offence

3g.—(1) Every person who is not a registered importer or exporter under this Act and who wishes to transport or cause to be transported tobacco in bulk owned by the person from a location outside Ontario, through Ontario and continuing to

Transit permit

another location outside Ontario shall apply to the Minister for a transit permit prior to the transport.

Conditions

(2) The Minister may, as a requirement for the issuance of a transit permit, impose such reasonable conditions, including the posting of security, as the Minister considers appropriate.

Copy of
transit permit

(3) Every person to whom a transit permit is issued under this section and who is an interjurisdictional transporter shall keep in the possession of the driver of any motor vehicle operated by the holder of the transit permit a notarial copy of the permit.

Idem

(4) Every interjurisdictional transporter who is transporting tobacco in bulk on behalf of a person to whom a transit permit has been issued under subsection (1) shall secure from the person notarial copies of the transit permit.

Permit not
valid

(5) A transit permit is not valid in respect of the transport of marked cigarettes.

6. Section 4 of the Act is repealed and the following substituted:

Refusal to
designate,
etc.

4.—(1) The Minister may refuse to designate a person under subsection 3a (1) or to issue a registration certificate or permit under this Act or the regulations if,

- (a) the person has not paid all of the tax that the person is liable to pay under this Act;
- (b) the person, or any officer, director, shareholder, employee or partner of the person,
 - (i) has failed to pay a fine levied upon conviction under this Act,
 - (ii) has been convicted of an offence of fraud or tax evasion within the previous five years, or
 - (iii) held a registration certificate or permit issued under this Act or the regulations that was cancelled within the preceding five years;
- (c) the person fails to satisfy the Minister of the person's ability to perform the conditions proposed by the Minister to be contained in the designation, registration or permit; or

- (d) the person fails to provide security as required by subsection 4a (2).

(2) The Minister may suspend or cancel the designation of a collector or the registration certificate or permit issued to a person under this Act or the regulations if the person contravenes or permits the contravention of any provision of this Act or the regulations or of any condition or restriction contained in the designation, registration certificate or permit.

Suspension or cancellation of designation, etc.

(3) Where the Minister proposes to take action under subsection (1), (2) or 3e (7), the Minister shall, before the refusal, suspension or cancellation is made, afford the person the opportunity to appear before the Minister to show cause why the designation, the registration certificate or the permit should not be refused, suspended or cancelled, as the case may be.

Hearing

(4) Despite subsection (3), where a collector, a holder of a registration certificate or a holder of a permit under this Act or the regulations fails to deliver a return as required by this Act and the regulations or fails to remit the tax payable by the person, the Minister may, by notice in writing to the person stating the reasons therefor, suspend forthwith the designation, registration certificate or permit, but the person may, within 180 days of the service of the notice, request a hearing before the Minister on a day to be fixed not more than ten days from the date of the receipt of the request by the Minister, to determine whether the suspension may be rescinded and, if so, upon what conditions the suspension may be rescinded.

Suspension forthwith

(5) A notice under subsection (1), (2) or (4) is properly served by personal service or by registered mail sent to the last known address of the person referred to in the subsection.

Service of notice

4a.—(1) The Minister may demand information or additional information from any person for the purposes of evaluating the suitability of a person to be a collector, registered importer, or exporter, or to hold a permit to mark or stamp cigarettes or to purchase and sell unmarked cigarettes, or to ascertain the amount of security to be furnished by a person in accordance with subsection (2) and the person shall deliver the information or further information the Minister requires within the time specified in the Minister's demand.

Information

(2) The Minister may demand security in a form acceptable to the Minister from,

Security

- (a) every collector in an amount equivalent to the average three months' tax collectable and payable by the collector calculated for the twelve-month period preceding the date of the Minister's demand, or \$1,000,000, whichever is the greater;
- (b) every importer who acquires marked cigarettes outside Ontario for distribution in Ontario, in an amount equal to the greater of \$500,000 or the average three months' tax that would be collectable and payable by the importer calculated on the basis of the twelve-month period immediately preceding the date of the Minister's demand, if the cigarettes were sold to a consumer in Ontario in the twelve-month period;
- (c) every exporter in an amount specified by the Minister upon the forwarding to the Minister of information required in respect of tobacco to be exported for the purposes of subsection 3b (9);
- (d) every person who applies for or is the holder of a permit to mark cigarettes in an amount equal to the greater of \$1,000,000 or the average three months' tax that would be collectable and payable by the person calculated on the basis of the twelve-month period preceding the Minister's demand if the production of marked cigarettes were sold to consumers in Ontario during the twelve-month period;
- (e) every person who applies for or is the holder of a permit to stamp cigarettes in an amount equal to the greater of \$500,000 or the average three months' tax that would be collectable and payable by the person calculated on the basis of the twelve-month period preceding the Minister's demand if the production of stamped cigarettes were sold to consumers in Ontario during the twelve-month period; and
- (f) every person who applies for or is the holder of a permit to purchase or sell unmarked cigarettes in an amount equal to the greater of \$500,000 or the average three months' tax that would be collectable or payable by the person calculated on the basis of the twelve-month period preceding the Minister's demand, if the person's acquisition of unmarked cigarettes were marked cigarettes that were sold to consumers in Ontario during the twelve-month period.

(3) Every person shall, upon receipt of a demand under subsection (2), forthwith furnish the amount of security to the Minister. Idem

(4) The Minister may, at any time, increase or decrease the amount of security furnished or to be furnished under subsection (2). Idem

(5) Where the Minister has, under this Act, assessed any person who has provided security under subsection (2), all or any part of the security may be paid into the Consolidated Revenue Fund in satisfaction of all or any part of the person's assessed liability. Application of security

7. Section 9 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 85, is repealed and the following substituted:

9.—(1) Every collector, importer, exporter, interjurisdictional transporter, wholesaler, manufacturer, or holders of a permit to mark or stamp cigarettes or to purchase and sell unmarked cigarettes, or holder of a transit permit shall deliver to the Minister such returns as the Minister requires for the purpose of this Act, Returns by collectors, etc.

- (a) without notice or demand at the time and in the manner prescribed; or
- (b) on or before the day designated in the demand of the Minister served by personal service or by registered mail.

(2) Every return shall be verified by the certificate of the person required to file the return, and if the person is not an individual, of its president or resident manager or representative in Ontario, that the financial and other statements of information included in or attached to the return are in agreement with the books of the person and contain true, correct and complete information for the period covered by the return. Idem

(3) Every person who fails to make a return as required under subsection (1) shall pay a penalty, when assessed therefor, of 10 per cent of the tax collectable and the tax payable by the person, to a maximum of \$50,000 in respect of each return. Penalty

(4) Every person who fails to make a return as required under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than 5 Offence

per cent of the amount of tax that would have been reported had the person's return been properly completed and filed.

Offence

(5) Every person who fails to complete the information required in a return required under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000.

Enlargement
of time

(6) The Minister may enlarge the time for making a return before or after the time for making it.

Declarations
and affidavits

(7) Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath or affirmation, or before any person specifically authorized for that purpose by the Lieutenant Governor in Council, but a person so specifically authorized shall not charge a fee therefor.

8. Section 9a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 41, section 2, is repealed and the following substituted:

Transmission
of tax

9a.—(1) Every collector or importer shall, with the return required under subsection 9 (1), transmit the tax payable or payable and collectable by the collector or importer.

Deficiency

(2) A collector or importer who transmits less than the amount of tax payable or payable and collectable by the collector or importer shall pay to the Treasurer interest at the prescribed rate upon the deficiency from the date of default until the date of transmission of the deficiency to the Treasurer.

Refund of
tax claimed

(3) Despite subsection (1), a collector may retain the amount of a refund for which the collector has made application under this Act or the regulations until the refund for which the collector has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to the collector.

Repayment
of refund
taken

(4) Despite subsection (3), upon receiving a statement of disallowance under subsection 10 (2a) in respect of the application referred to in subsection (3), the collector shall, with the collector's next return or at such earlier time as is specified in the statement of disallowance, whether or not an objection or appeal therefrom has been made or taken, transmit to the Treasurer the amount of any refund refused, together with interest thereon at the rate prescribed for the period during which the amount was retained by the collector and, upon being notified of the approval of any refund

claimed, the collector may, subject to section 27, retain the amount so approved.

(5) Subsection (3) only applies to a collector, who, in a return filed by the collector in accordance with this Act and the regulations, shows that tax under this Act is to be remitted by the collector and who, at the time the return is delivered to the Minister, has also applied for a refund under this Act or the regulations. Application
of subs. (3)

(6) Every person who is required to pay over to a collector or registered importer or to remit to the Treasurer the tax imposed by this Act and who fails to pay over or remit the tax is guilty of an offence and on conviction is liable to a fine of not less than an amount equal to 25 per cent of the tax and not more than an amount equal to twice the amount of the tax that should have been paid over or remitted. Offence

9.—(1) Section 10 of the Act, as amended by the Statutes of Ontario, 1985, chapter 22, section 3, is further amended by adding the following subsection:

(1a) Every person who fails to collect tax that the person is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to not more than twice the amount the person failed to collect. Penalty

(2) Subsection 10 (2) of the Act is amended by striking out “consumer or dealer” in the third line and substituting “collector, importer, exporter, wholesaler, retail dealer, consumer, interjurisdictional transporter, holder of a permit to mark or stamp cigarettes or holder of a transit permit”.

(3) Subsections 10 (3) and (4) of the Act are amended by inserting after “(1)” in the second line in each instance “(1a)”.

(4) Section 10 is further amended by adding the following subsection:

(9) No penalty under subsection (1a) shall be made with respect to tax that should have been collected more than four years before the date of the assessment under subsection (1a), except that, where the Minister establishes that the person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, the Minister may, where the Minister considers it expedient, impose the penalty provided under subsection (1a) for tax Limitation

that should have been collected more than four years before the date of assessment.

10.—(1) Subsection 12 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 22, section 4, is amended by striking out “interest or penalty” in the first and second lines and substituting “or interest, or the assessment or payment of a penalty”.

(2) Subsection 12 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 22, section 4, is amended by inserting after “disallowance” in the second and third lines and in the fourth line “or penalty”.

11.—(1) Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 22, section 5 is further amended by striking out “or statement of disallowance” in the amendment of 1985 and substituting “statement of disallowance or penalty”.

(2) Subsection 13 (8) of the Act is amended by inserting after “tax” in the second line “or penalty”.

12.—(1) Section 14 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 3 and 1985, chapter 22, section 6, is further amended by adding the following subsection:

Idem

(1a) Every holder of a permit to mark or stamp cigarettes shall permit any person authorized for the purpose by the Minister to enter any mark-point or designated warehouse operated by the holder during normal business hours and the authorized person may,

- (a) audit or examine any books and records and any account, voucher, letter, telegram or other document that is kept at the mark-point;
- (b) examine the property described in an inventory or any other property, process or matter, the examination of which may, in the person's opinion, assist in determining the accuracy of an inventory or in ascertaining information that is or should be in the books or records or in a return, or the amount of any tax imposed by this Act; and
- (c) examine any inventory of,
 - (i) marked or unmarked cigarettes,

(ii) used or unused indicia, and

(iii) used or unused containers or materials designed to pack cigarettes.

(2) Subsection 14 (2) of the Act is amended by inserting after “information” in the fourth line “additional information, a return, a more complete or sufficient return”.

(3) Section 14 is further amended by adding the following subsection:

(3) Any person who fails or refuses to keep adequate books of account and other records for the purpose of ascertaining the amount of tax payable or payable and collectable by the person may be required, upon notice by the Minister by registered letter, to keep such books of account and records as the Minister specifies in the notice for such length of time as the Minister requires.

Demand to
keep records

13. Section 15 of the Act is repealed and the following substituted:

15.—(1) For any purpose relating to the administration and enforcement of this Act and the regulations, any person authorized for the purpose by the Minister,

Detention of
vehicles, etc.

- (a) may, without warrant, stop and detain any vehicle, including any trailer attached to the vehicle, any vessel, railway equipment on rails or aircraft;
- (b) may examine the contents thereof including any cargo, manifests, records, accounts, vouchers, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations; and
- (c) subject to subsection (2), may seize and take away any of such manifests, records, accounts or vouchers and retain them until they are produced in any court proceedings.

(2) Where documents are seized under subsection (1), the Minister shall, within fourteen days, make application to a justice, as defined in the *Provincial Offences Act*, for an order to permit the retention of the documents until they are produced in any court proceeding, and the application may be heard and the order may be made, both without notice, upon receipt of information under oath from a person who believes on reasonable and probable grounds that the documents

Application
for retention
of documents
R.S.O. 1980,
c. 400

afford evidence of the commission of an offence under this Act.

Seizure and disposal of tobacco in bulk

(3) Where, following a detention under subsection (1), tobacco in bulk is found in the control of a person who has not been designated a collector, does not hold a registration certificate issued under subsection 3b (1) or 3d (1), does not hold a permit issued under subsection 3 (3), 3e (2) or 3f (1), or is being transported or stored in Ontario by or for such a person, any person authorized for the purpose by the Minister may, subject to subsections (4), (5) and (6), seize, impound, hold and dispose of the tobacco.

Saving

(4) Despite subsection (3), no seizure, impounding, holding or disposal shall be made if the person in control of the tobacco in bulk detained under subsection (1),

- (a) is an interjurisdictional transporter;
- (b) holds a wholesaler's permit under subsection 3 (1) and can provide proof satisfactory to the person authorized by the Minister for the purposes of subsection (3) that the tobacco in bulk was purchased from a collector;
- (c) holds a vendor's permit issued under the *Retail Sales Tax Act* and can provide proof satisfactory to the person authorized by the Minister that the tobacco in bulk was purchased from a registered wholesaler; or
- (d) has in the person's possession a transit permit issued to the owner of the tobacco in bulk under subsection 3g (1).

R.S.O. 1980,
c. 454

Application

(5) Tobacco in bulk seized under subsection (3) is forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the tobacco in bulk was seized, or the owner of the tobacco in bulk, applies to the Supreme Court to establish the right to possess the tobacco in bulk.

Right to possession of tobacco in bulk

(6) For the purposes of an application under subsection (5), the applicant has the right to possession of the tobacco in bulk if the owner, or the person for whom the tobacco in bulk was being transported, was, at the time the seizure was made, a person specified in subsection (3) or (4) as someone from whom tobacco in bulk was not to be seized.

(7) Where, on an application under subsection (5), the court is satisfied that the applicant has the right to possession of the tobacco in bulk, the court may order that the tobacco in bulk be returned to the applicant or that the proceeds of sale of the tobacco in bulk be paid to the applicant.

Order

(8) Where a final order has not been made under subsection (7) within sixty days after the filing of the application under subsection (5), the Minister may dispose of the tobacco in bulk and retain the proceeds pending the determination of the application.

Disposal
pending final
determination
by court

(9) Upon dismissal of an application under subsection (5) and the expiry of the appeal period provided therefor, the tobacco in bulk is forfeited to Her Majesty to be disposed of as the Minister directs.

Forfeiture
after
dismissal of
application

(10) Where a sale of tobacco in bulk is directed under subsection (5) or (9), or where the proceeds of a sale are retained under subsection (8) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the tobacco in bulk shall be paid into the Consolidated Revenue Fund.

Proceeds of
sale

(11) For the purposes of this section, "vehicle" means a motor vehicle that has more than two axles or more than four wheels, or that is designed by the manufacturer thereof to carry in its enclosed non-passenger space more than 2.548 cubic metres of cargo, and includes any vehicle that is attached to a trailer that is not a house trailer, boat trailer or camper trailer that is being used for the purpose for which it was designed.

Definition

(12) Every person from whom tobacco in bulk is seized under subsection (3) shall pay a penalty, when assessed therefor, equal to three times the tax that would be payable under subsection 2 (1) were the tobacco sold to a consumer in Ontario, or where tobacco in bulk includes unmarked cigarettes, three times the tax that would be payable were the cigarettes marked cigarettes sold to a consumer in Ontario.

Penalty

(13) No penalty shall be assessed under subsection (12) in respect of any person where an order has been made under subsection (7).

Saving

14. The Act is further amended by adding the following section:

Use of
remedy

17a. The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any lien charge or priority under this Act or otherwise.

15. Clauses 18 (3) (b) and (c) of the Act are amended by striking out “dealer or consumer” wherever they occur and substituting in each instance “collector, importer, exporter, interjurisdictional transporter, consumer, wholesaler, retail dealer or holder of a permit to mark or stamp cigarettes”.

16. Section 19 of the Act is repealed and the following substituted:

Prohibition,
unmarked
cigarettes

19.—(1) No person shall, unless permitted under this Act or the regulations to do so, have in the person’s possession any unmarked cigarettes for the purposes of sale.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than thirty cents for each unmarked cigarette in that person’s possession, and all unmarked cigarettes found in the person’s possession shall be ordered forfeited to Her Majesty.

Penalty

(3) Every person who, except as permitted under this Act or the regulations, sells or offers for sale or keeps for sale in Ontario unmarked cigarettes shall pay a penalty, when assessed therefor, on all unmarked cigarettes so sold, offered for sale or kept for sale, equal to three times the amount of tax payable under section 2 were the cigarettes marked cigarettes sold to consumers in Ontario.

Penalty

(4) Every person who, except as permitted under this Act or the regulations, purchases or receives for sale any unmarked cigarettes shall pay a penalty, when assessed therefor, on all unmarked cigarettes so purchased or received for sale, equal to three times the amount of tax payable under section 2 were the cigarettes marked cigarettes sold to consumers in Ontario.

17. Section 22 of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 5, is repealed and the following substituted:

Communi-
cation of
information

22.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act;
- (b) knowingly allow any person to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) Despite any other Act, but subject to subsection (3), no person employed by the Government of Ontario shall be required, in connection with any legal proceeding,

Officials not
compellable
as witnesses

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections (1) and (2) do not apply in respect of,

Exceptions
for legal
proceedings

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection of tax under this Act.

(4) A person employed by the Government of Ontario may, in the course of the person's duties in connection with the administration and enforcement of this Act,

Exception for
internal
adminis-
tration

- (a) communicate or allow to be communicated to any other person employed by the Government of Ontario in the administration and enforcement of any laws related to the raising of revenue or the registration of any person for provincial purposes any information obtained by or on behalf of the Minister under this Act; and
- (b) allow any person employed in the administration and enforcement of any laws relating to the raising of revenues or the registration of any person for provincial purposes or any law enforcement official of the Government of Ontario, of Canada or of any other province or territory of Canada to inspect or

have access to any record or thing obtained by or on behalf of the Minister under this Act,

if the information, record or thing obtained by the person that affects the administration and enforcement of this Act is communicated or furnished on a reciprocal basis to the Minister, and the information, record or thing will only be used for the administration or enforcement of this Act or an Act that is administered or enforced by the official or the person receiving the information, record or thing.

Exception for
objection and
appeal

(5) Despite anything in this Act, the Minister may permit a copy of any record or thing obtained under this Act to be given to,

- (a) the person from whom the record or thing was obtained; or
- (b) any person,
 - (i) for the purpose of an objection or appeal taken by the person under this Act in connection with which the record was obtained, or
 - (ii) by whom any amount payable under this Act is payable or has been paid; or
- (c) the legal representative of any person referred to in clause (a) or (b) or the agent of the legal representative authorized in writing.

Exception for
tax
enforcement
in other
jurisdictions

(6) The Minister may communicate or allow to be communicated any information, record or thing obtained under this Act or allow inspection of or access to any written statement furnished under this Act to any person employed by any government, provided that the information, record or thing and the written statements obtained by such government for the purposes of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and if the information, record or thing and the written statements will not be used for any purpose other than the administration or enforcement of a tax law.

Exception for
tax policy
information

(7) Notwithstanding anything in this Act, the Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics information obtained under this Act solely for the purpose of evaluating and formulating tax policy.

(8) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Offence

18. The Act is further amended by adding the following sections:

22a.—(1) No person shall affix an Ontario tax indicium to a package of cigarettes or to the tear-tape of a package of cigarettes or to a carton, case or container of any description for tobacco for sale to a consumer outside Ontario. No indicia
outside
Ontario

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$500,000. Offence

22b.—(1) Every person who affixes to a package of cigarettes or the tear-tape of a package of cigarettes a false, forged, fraudulent, spurious or counterfeit indicium or an indicium that has been used before, or who prints on a package, carton, case or container of any description for packaging cigarettes a false, forged, fraudulent, spurious or counterfeit indicium is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$100,000 or to imprisonment for a term of not more than two years, or to both. Offence

(2) Every holder of a permit to mark or stamp cigarettes or dealer who possesses cigarettes contained in a package, carton or case that has previously been used as a marked package, carton or case under this Act or the regulations or contained in packages, cartons or cases that have been fraudulently marked shall pay a penalty, when assessed therefor on a first such assessment, of \$10 for each package, \$80 for each carton and \$500 for each case, and a penalty on each subsequent assessment of \$50 for each package, \$400 for each carton and \$2,500 for each case. Penalty

19. Subsection 23 (2) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 72, section 85, is amended by striking out “according to the regulations” in the second and third lines and substituting “or who is not an importer holding a registration certificate under section 3b or a wholesaler holding a permit under section 3”.

20. Section 24 of the Act is amended by striking out “three” in the second line and substituting “six”.

21. Section 25 of the Act is repealed and the following substituted:

Reciprocal
arrangements

25. For the purposes of simplifying compliance with this Act and the administration and collection of the tax imposed by this Act and in order to provide reciprocal arrangements to settle claims for tax on the acquisition and use of tobacco by persons carrying on business in more than one province or territory of Canada, the Lieutenant Governor in Council may, on the recommendation of the Minister and on such terms and conditions as are considered necessary and expedient, enter into an agreement with any province or territory of Canada that tax paid to one jurisdiction on the acquisition thereof of tobacco that is transferred to the other jurisdiction may be paid by one jurisdiction to the other in reduction of the liability to the tax arising in the jurisdiction receiving the payment and in lieu of refunding the tax to the person who paid it and who became liable for similar tax in the other jurisdiction.

22. The Act is further amended by adding the following section:

Refund on
exports of
tobacco

26a.—(1) Where a person exports tobacco from Ontario, the Minister may refund to the person any amount paid on account of tax in respect of the tobacco if,

- (a) the person holds a registration certificate issued under subsection 3b (1) as an exporter;
- (b) the tobacco was exported for the purpose of sale; and
- (c) the application for the refund is supported by,
 - (i) invoices verifying the purchase of the tobacco and the payment of the amounts on account of the tax,
 - (ii) documentary evidence acceptable to the Minister that the tobacco exported from Ontario was delivered to a purchaser in another jurisdiction, and
 - (iii) a certification by the jurisdiction into which the tobacco was delivered for consumption that tax was paid to that jurisdiction on the tobacco exported from Ontario or that the consumers of the tobacco were not liable to pay tax on the tobacco purchased by them.

Limitation

(2) A refund under this section shall not be made unless an application therefor is received by the Minister within three years of the date when the amount on account of the tax, a

refund of which is sought, was paid and it is established to the satisfaction of the Minister that the applicant is entitled to the refund claimed.

(3) Where an applicant for a refund under this Act has misrepresented a material fact on or in connection with an application for a refund, a return where an amount was retained by the applicant under subsection 9a (3) or in an invoice supporting the application or return, the Minister may, Penalty

- (a) deny all or any part of the refund; and
- (b) impose a penalty, upon assessment therefor, of an amount equal to or less than the amount of the refund denied.

22.—(1) Clause 28 (1) (g) of the Act is repealed and the following substituted:

- (g) governing the activities of those who are required or permitted to hold permits or registration certificates under this Act.

(2) Clause 28 (1) (o) of the Act is repealed and the following substituted:

- (o) prescribing any matter required by this Act to be prescribed or referred to in this Act as prescribed.

(3) Subsection 28 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 6, 1983, chapter 25, section 2 and 1988, chapter 65, sections 3 and 4, is further amended by adding the following clauses:

- (p) providing a system for the sale of unmarked cigarettes to classes of persons who are exempt from the payment of the tax imposed by this Act, including the limitation on the quantity of unmarked cigarettes to be sold to retail dealers for resale to such consumers;
- (q) providing for the furnishing to the Minister of information related to the sale or delivery of tobacco products that are exempt from the tax imposed by this Act or that are delivered to classes of persons who are exempt from the payment of the tax imposed by this Act;

- (r) authorizing any person to collect tax or security for the tax imposed by this Act and regulating the time and manner of such collection.

(4) Clauses 28 (2) (b) and (c) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 4, section 6, are repealed and the following substituted:

- (b) prescribing, defining, designating or determining anything that the Minister is permitted or required by this Act to prescribe, define, designate or determine;
- (c) prescribing the responsibilities of holders of permits to mark or stamp cigarettes for the receipt, use of and the accounting for indicia.

Commence-
ment

23.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the 1st day of May, 1990.

Idem

(2) Sections 5 and 6 and subsection 12 (1) shall be deemed to have come into force on the 1st day of March, 1990.

Idem

(3) Subsection 2 (1) comes into force on the 25th day of April, 1990.

Short title

24. The short title of this Act is the *Tobacco Tax Amendment Act, 1990*.

Bill 161

An Act to repeal the Fraudulent Debtors Arrest Act

The Hon. I. Scott
Attorney General



1st Reading May 2nd, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Self-explanatory.

Bill 161

1990

An Act to repeal the Fraudulent Debtors Arrest Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Fraudulent Debtors Arrest Act* is repealed.

Repeal
R.S.O. 1980,
c. 117

2. All actions and applications commenced under the *Fraudulent Debtors Arrest Act* are hereby discontinued without costs.

Actions
discontinued

3. Every order for the arrest of any person made under the *Fraudulent Debtors Arrest Act* is unenforceable and any person in custody under such an order shall be released forthwith.

Arrest orders
unenforceable

4. Except as provided in section 3, this Act does not affect the enforceability of any order made under the *Fraudulent Debtors Arrest Act*.

Other orders
not affected

5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

6. The short title of this Act is the *Fraudulent Debtors Arrest Repeal Act, 1990*.

Short title

Bill 162

An Act to amend the Workers' Compensation Act

The Hon. G. Sorbara

Minister of Labour



1st Reading June 20th, 1988

2nd Reading

3rd Reading

Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The Bill institutes a system of compensation in which workers who are permanently impaired as a result of a work-related injury receive benefits for future loss of earnings, for non-economic loss and for loss of retirement income (sections 15 and 20).

The existing system of two streams of benefits — one for temporarily disabled workers and one for permanently impaired workers — is modified (sections 6, 10 and 11, subsection 13 (2) and sections 15 and 29). The maximum amount of average earnings upon which compensation may be calculated under the Act is increased (section 12). Compensation of a worker for temporary disability ends after one year or when the worker is determined to be permanently impaired. The worker then may begin to receive benefits for future loss of earnings. Details of workers' eligibility for, and the duration of, these benefits are set out (section 15).

The amount of compensation paid to a worker for future loss of earnings is determined by the Board and is reviewed at two years and again at five years from the date of its original determination (section 15).

Workers who receive benefits for future loss of earnings also accumulate an entitlement to receive retirement income. The amount of the retirement income is proportional to the amount of, and the length of time that the worker received, the benefits for future loss of earnings (section 15).

The amount of compensation for non-economic loss payable to a permanently impaired worker is determined by the percentage of permanent impairment of the worker (section 15). The worker may have his or her medical condition reassessed and the compensation adjusted, if the worker experiences a significant deterioration of condition that was not anticipated when the original medical assessment was made (section 15).

New requirements governing vocational rehabilitation for injured workers are set out (section 19).

Workers who co-operate in vocational rehabilitation programs have their benefits under the Act supplemented while they are taking the program. These supplements are extended to workers receiving benefits under the existing Act (section 28). A supplement is also provided in certain circumstances for workers receiving benefits under the existing Act who are unlikely to benefit from vocational rehabilitation (section 28).

Employers are required for a specified period to reinstate or re-employ workers who have been injured following their recovery (section 19 and subsection 22 (4)).

Employers are required to maintain certain employment benefits of injured workers, in specified circumstances, for one year after the injury occurs (section 3).

Criteria for determining the amount of compensation payable to workers who were apprentices, learners or students at the time of an injury are to be set out in the regulations (section 14).

The authority of the Board to divert a worker's compensation under the Act to the worker's spouse or dependants, in accordance with a court order for support or maintenance, is made subject to the certain limits (section 16).

The existing requirement that physicians and others caring for injured workers provide reports to the Board without additional charge is deleted (section 18).

Protection against civil liability is extended to members, officers and employees of the Industrial Disease Standards Panel, to officers and employees of the Office of the Worker Adviser, the Office of the Employer Adviser and of accident prevention associations, and to medical practitioners conducting assessments in specified circumstances (sections 15, 23, 24, 25 and 27).

The terminology in the Act relating to "disability", referring to economic consequences of an injury, and "impairment", relating to physical and psychological consequences of an injury, is clarified (sections 1, 2, 4, 5, 7, 8 and 9, subsection 13 (1), sections 17 and 21, subsections 22 (1), (2) and (3) and sections 26 and 27).

Bill 162

1989

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (ea) "contributions for employment benefits", in relation to a worker, means amounts paid in whole or in part by an employer on behalf of the worker or the worker's spouse or dependants for health care, life insurance and pension benefits;

.

- (g) "disability", in relation to an injured worker, means the loss of earning capacity of the worker that results from an injury.

(2) Clause 1 (1) (i) of the said Act is amended by adding at the end thereof "but does not include contributions for employment benefits".

(3) The said subsection 1 (1) is further amended by adding thereto the following clauses:

- (la) "impairment", in relation to an injured worker, means any physical or functional abnormality or loss including disfigurement which results from an injury and any psychological damage arising from the abnormality or loss;

.

- (va) "permanent impairment", in relation to an injured worker, means impairment that continues to exist

after maximum medical rehabilitation of the worker has been achieved;

.

(xb) "student" means a person who is pursuing formal education as a full-time student and is employed by an employer for the purposes of the employer's industry, although not as a learner or an apprentice.

(4) Subclause 1 (1) (z) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 1, is amended by inserting at the end thereof "or student".

2. Subsection 3 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 3, is amended by striking out "disability" in the last line and inserting in lieu thereof "impairment".

3. The said Act is amended by adding thereto the following section:

Maintenance
of
employment
benefits for
injured
worker

5a.—(1) If a worker is absent from employment because of an injury and if the employer at the time of the injury made contributions for employment benefits in respect of the worker, the employer shall continue to make such contributions for employment benefits throughout any absence from work by the worker that occurs during the year after the date of the injury, as long as the worker continues to pay the worker's contributions, if any, for the employment benefits.

Offence

(2) Every employer who fails to comply with subsection (1) is guilty of an offence for each pay period during which the failure to comply continues.

4. Section 13 of the said Act is amended by striking out "disability" wherever it occurs and inserting in lieu thereof in each instance "impairment".

5. Section 23 of the said Act is amended by striking out "permanent disability" in the sixth line and inserting in lieu thereof "compensation".

6. Section 24 of the said Act is amended by inserting after "payment" in the first line "under section 40" and by striking out "hereinafter prescribed" in the last line and inserting in lieu thereof "amount payable under that section".

7. Subsection 27 (1) of the said Act is amended by striking out "if the disability is permanent" in the sixth line.

8. Subsection 28 (1) of the said Act is amended by striking out “disability” in the eighth line and inserting in lieu thereof “impairment”.

9. Subsection 32 (1) of the said Act is amended by striking out “disability” in the second line and inserting in lieu thereof “impairment”.

10.—(1) Clause 36 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is amended by adding at the end thereof “or 54a”.

(2) Subsection 36 (13) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is repealed and the following substituted therefor:

(13) In calculating the compensation payable by way of periodic payments under this section, the Board shall have regard to any payments of survivor benefits for death caused by injury that are received under the Canada Pension Plan or the Quebec Pension Plan.

Deductions
for C.P.P.
and Q.P.P.
payments

(3) Subsection 36 (16) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 3, section 1, is amended by striking out “\$31,500 per annum” in the last line and inserting in lieu thereof “the maximum amount determined under section 41”.

11.—(1) Subsection 40 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by adding at the end thereof “or until the worker begins receiving payments under section 45a”.

(2) Subsection 40 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan and, where subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of disability resulting from the injury as determined by the Board.

Deductions
for C.P.P.
and Q.P.P.
payments

12. Section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

Maximum
earnings

41.—(1) For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated is,

- (a) \$35,100, effective on the day this section comes into force;
- (b) \$40,000 per annum, effective on the 1st day of January of the year following the year in which this section comes into force; and
- (c) 175 per cent of the average industrial wage for Ontario, determined in accordance with subsection (2), effective one year after the effective date for the amount in clause (b).

Determi-
nation of the
average
industrial
wage

(2) For the purposes of clause (1) (c), the average industrial wage for Ontario is an amount applicable from the 1st day of January to the 31st day of December in a year, the calculation of which is based upon the most recent published material that is available on the 1st day of July of the preceding year, and the amount of which is based upon the estimated weekly earnings industrial aggregate for Ontario as published by Statistics Canada.

13.—(1) Subsection 42 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by striking out “impairment of earning capacity” in the last line and inserting in lieu thereof “degree of disability”.

(2) Subsection 42 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 2, is repealed.

14. Subsection 43 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

Apprentices,
learners and
students

(6) Notwithstanding subsection (1), if a worker was an apprentice, learner or student at the time of the accident, the Board shall determine the worker's average earnings using such criteria as may be prescribed by regulation.

15. Section 45 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 3, is repealed and the following substituted therefor:

45.—(1) A worker who suffers permanent impairment as a result of an injury is entitled to receive an amount for non-economic loss in addition to any other benefit receivable under this Act.

Non-economic loss where permanent impairment

(2) The amount for a worker's non-economic loss from an injury is determined by multiplying,

Amount for non-economic loss

(a) the percentage of the worker's permanent impairment arising from the injury as determined by the Board; and

(b) \$45,000,

(i) plus \$1,000 for each year of age of the worker under forty-five years at the time of the injury, to a maximum of \$20,000, or

(ii) minus \$1,000 for each year of age of the worker over forty-five years at the time of the injury, to a maximum of \$20,000.

(3) Payment of the amount for non-economic loss shall be by lump sum unless,

Payment of the amount

(a) the amount is greater than \$10,000; and

(b) the worker elects, by notice in writing to the Board, to receive the amount in equal monthly payments.

(4) The Board shall determine the degree of a worker's permanent impairment expressed as a percentage of total permanent impairment having regard to medical assessments conducted under this section.

Determination of the percentage of permanent impairment

(5) A medical practitioner who conducts a medical assessment under this section shall,

Medical assessment

(a) examine the worker;

(b) assess the degree of permanent impairment of the worker according to the prescribed rating schedule, having regard to the existing and anticipated likely future consequences of the injury; and

(c) promptly forward a copy of the results of the medical assessment to the Board.

(6) After maximum medical rehabilitation of an injured worker has been achieved, the Board shall appoint a medical

Initial medical assessment

practitioner who shall conduct a medical assessment of the worker.

Notification
of worker
and employer

(7) Upon receiving the results of a medical assessment conducted under subsection (6), the Board shall determine the percentage of permanent impairment of a worker and shall send notice of its decision to the worker and to the employer together with,

- (a) for the worker, a copy of the results of the medical assessment; and
- (b) for the employer, notice of the degree of permanent impairment of the worker found by the medical practitioner.

Request for
reconsideration

(8) A worker or employer may, within ninety days after the decision of the Board is mailed under subsection (7), request that the Board reconsider its decision respecting the percentage of permanent impairment of the worker.

Selection of
medical
practitioner

(9) Upon receiving a request for reconsideration under subsection (8), the Board shall provide the worker and the employer with a list of at least three medical practitioners, selected from a roster established under subsection (16), from among whom the worker and the employer, by agreement and within thirty days after receiving the list, may select a person who shall conduct a medical assessment.

Idem

(10) If the worker and the employer fail to agree under subsection (9) upon a person to conduct the medical assessment, the Board shall select a medical practitioner from a roster established under subsection (16) and, where possible, who is not named on the list provided to the worker and the employer, who shall conduct the medical assessment.

Idem

(11) Where, because of the nature of a worker's impairment, the Board is of the opinion that it is impractical to provide a list of the names of at least three medical practitioners under subsection (9), the Board shall appoint such medical practitioner to conduct the medical assessment of the worker as the Board considers appropriate in the circumstances.

Reconsideration and
notice

(12) Upon receiving the results of a medical assessment conducted as a result of a request under subsection (8), the Board shall reconsider its decision respecting the percentage of permanent impairment of the worker and shall promptly send notice of its decision following its reconsideration to the worker and to the employer together with,

- (a) for the worker, a copy of the results of the medical assessment; and
- (b) for the employer, notice of the degree of permanent impairment of the worker found by the medical practitioner.

(13) A worker, who the Board has determined under this section to have a permanent impairment and who suffers a significant deterioration of condition that was not anticipated at the time of the most recent medical assessment under this section, may apply to the Board to reconsider the worker's percentage of permanent impairment, and subsections (5) to (12) apply to the reconsideration as though it were an initial determination by the Board under this section, with such modifications as the circumstances require.

Reconsideration following unanticipated deterioration

(14) No worker may apply under subsection (13) until twelve months have elapsed from the most recent decision by the Board respecting percentage of permanent impairment of the worker, and no worker may apply more than twice under subsection (13).

Time for applying

(15) Notwithstanding subsection 860 (1), no appeal lies to the Appeals Tribunal from a decision of the Board under this section or in respect of medical assessment conducted under this section.

No appeal to Appeals Tribunal

(16) The Lieutenant Governor in Council, on the recommendation of the Board, may establish a roster or rosters of medical practitioners for the purposes of selecting medical practitioners to make medical assessments under this section.

Roster of medical practitioners

(17) A medical practitioner who conducts an assessment under this section shall be paid such sum for services and expenses as the chairman of the Board may determine.

Remuneration of medical practitioners

(18) Subsections 83 (3) and (4) apply with necessary modifications to all medical practitioners who conduct medical assessments under this section.

Application of subss. 83 (3, 4)

45a.—(1) A worker who suffers injury resulting in permanent impairment or resulting in temporary disability for twelve continuous months is entitled to compensation for future loss of earnings arising from the injury.

Compensation for future loss of earnings

(2) Subject to subsection (4), the amount of compensation payable to a worker for future loss of earnings arising from an injury is equal to 90 per cent of the difference between,

Amount of compensation

- (a) the worker's net average earnings before the injury, having regard to the effect of inflation upon this amount; and
- (b) the net average amount that the Board considers that the worker is able to earn after the injury in suitable and available employment,

for such period, up to the time that the worker reaches sixty-five years of age, as the Board considers appropriate in the circumstances.

Earnings
from suitable
and available
employment

(3) For the purposes of subsection (2), in determining the amount that a worker is able to earn in suitable and available employment, the Board shall have regard to,

- (a) the net average earnings, if any, of the worker at the time the Board determines compensation under this section;
- (b) any disability payments the worker may receive for the injury under the Canada Pension Plan or the Quebec Pension Plan;
- (c) the personal and vocational characteristics of the worker;
- (d) the prospects for successful medical and vocational rehabilitation of the worker;
- (e) what constitutes suitable and available employment for the worker; and
- (f) such other factors as may be prescribed in the regulations.

Compen-
sation for
older workers

(4) The minimum amount of compensation payable under this section to a worker,

- (a) who is at least fifty-five years of age when the Board determines or reviews the amount of the worker's compensation under this section;
- (b) who has not returned to work; and
- (c) who, in the opinion of the Board, is unlikely to benefit from a vocational rehabilitation program which could help the worker return to work,

is the amount of the full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto.

R.S.C. 1970,
c. O-6

(5) If a worker who is receiving compensation under this section is co-operating in a Board-authorized vocational or medical rehabilitation program,

Supplement
to compen-
sation

- (a) that began before the date of the Board's review under clause (8) (a); or
- (b) that began within twelve months after a determination is made under subsection 45 (13) of an anticipated deterioration in the worker's condition,

the amount of compensation otherwise determined under this section shall be supplemented so that the total compensation payable to the worker while the worker is co-operating in the rehabilitation program is equal to 90 per cent of the worker's pre-injury net average earnings.

(6) Where possible, the Board shall determine the amount of compensation payable to a worker under this section,

Determi-
nation of
compensation

- (a) in the twelfth consecutive month during which the worker is temporarily disabled;
- (b) within one year after notice of the accident in which the worker was injured is given under section 20, if during that year the Board determines that the worker is permanently impaired; or
- (c) within eighteen months after notice of the accident in which the worker was injured is given under section 20, if the worker's medical condition precludes a determination within the time stated in clause (a) or (b), whichever applies.

(7) The Board may extend the time limits set out in subsection (6) in the case of a worker who is not receiving compensation under this Act and whose entitlement to compensation is in dispute.

Idem

(8) Where possible, the Board shall review its determination of the amount of compensation payable to a worker under this section,

Review of
amount of
compensation

- (a) in the twenty-fourth month after the date of its initial determination;

- (b) in the sixtieth month after the date of its initial determination; and
- (c) within twenty-four months after a reconsideration of the percentage of permanent impairment of a worker, under subsection 45 (13), results in a determination of increased permanent impairment of the worker,

but the Board shall not vary the amount of compensation payable as a result of a review unless the amount of the variation would be equal to at least 10 per cent of the amount of compensation being paid at the time of the review.

Payment of
compensation

(9) Compensation for future loss of earnings is payable in monthly or other periodic payments except as provided in subsection (10).

Commutation
of amount
payable

(10) If, following the review under clause (8) (b) or (c), the amount of compensation determined to be payable to a worker under this section is 10 per cent or less of the amount of compensation payable for full loss of earnings, the Board may commute the periodic amount payable to the worker to a lump sum unless the worker elects to receive the compensation in periodic payments.

Benefits for
loss of
retirement
income

45b.—(1) For the purpose of providing a worker who is receiving compensation under section 45a with a retirement pension, the Board shall set aside for the worker additional funds equal to 10 per cent of every payment made to the worker under section 45a.

Payments
deemed to
be made to
worker

(2) Payments to the spouse or dependants of a worker made by the Board under section 50 out of funds otherwise payable to the worker under section 45a shall be deemed to be payments to the worker for the purposes of subsection (1).

Entitlement
to retirement
income

(3) Each worker on whose behalf the Board sets aside funds under subsection (1), upon reaching sixty-five years of age, shall receive a retirement pension under this section.

Survivor
benefits

(4) Where a worker who is receiving a retirement pension or for whom funds are being set aside under this section dies, the spouse and dependants of the worker shall receive such benefits as may be prescribed by regulation.

Exception

(5) Notwithstanding subsection (4), a spouse and dependants who receive compensation under section 36 are not entitled to receive benefits under this section.

(6) A worker for whom funds are being set aside under subsection (1) may select the payment scheme for the worker's retirement pension from among the schemes and subject to the restrictions prescribed in the regulations.

Payment of
retirement
income

(7) Notwithstanding subsection (6), if the annual pension to which a worker becomes entitled upon reaching sixty-five years of age is less than \$1,000, the Board shall pay the worker's retirement pension under this section as a lump sum.

Idem

(8) Retirement pensions and other benefits payable to or in respect of a worker under this section shall be calculated on the basis of the funds set aside for the worker plus the accumulated investment income thereon.

Calculation
of pensions
and benefits

(9) An employer that is individually liable to pay compensation under this Act shall pay the funds set aside under subsection (1) to the Board.

Employer
payment

(10) The Board shall establish a fund into which funds set aside under subsection (1) shall be deposited and shall invest the fund in accordance with such procedures and restrictions as may be set out in the regulations.

Fund to be
established

16. Subsection 50 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 13, is repealed and the following substituted therefor:

(1) Where a worker is entitled to compensation under this Act and the worker's spouse is entitled or the worker's dependants are entitled to support or maintenance under a court order, the Board shall divert such portion of the compensation payable to the worker in each periodic payment as is permitted under subsection (1a),

Garnishment
for family
support

(a) in accordance with a garnishment notice issued by a court in Ontario; and

(b) to the extent of default or arrears accruing after the 1st day of April, 1985, under the court order.

(1a) Garnishment of compensation under subsection (1) is subject to the limits set out in section 7 of the *Wages Act* and compensation payable under this Act shall be deemed to be wages for the purposes of the *Wages Act*.

R.S.O. 1980,
c. 526 applies

17.—(1) Clause 52 (1) (c) of the said Act is amended by striking out "disability" in the second line and inserting in lieu thereof "impairment".

(2) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 3, section 4, is amended by striking out "disability" in the fifth line and inserting in lieu thereof "impairment".

18. Section 53 of the said Act is amended by striking out "without additional charge" in the fourth line.

19. The said Act is further amended by adding thereto the following sections:

Application

54a.—(1) This section applies in respect of a worker who receives benefits under section 40.

Vocational
rehabilitation

(2) Where, in the opinion of the Board, a worker should be provided with a vocational rehabilitation program, the Board, in consultation with the worker and, where possible, the employer and the worker's physician, shall design and provide the worker with a vocational rehabilitation program.

Particulars of
program

(3) A vocational rehabilitation program referred to in subsection (2) may include vocational training, language training, general skills upgrading, refresher courses, employment counselling (including training in job search skills and the identification of employment opportunities), assistance in seeking employment and assistance in adapting the work place of an employer to accommodate the worker.

Entitlement
to job search
assistance

(4) If a worker's vocational rehabilitation program under this section includes assistance in seeking employment, the Board shall assist the worker to search for employment for a period of up to six months after the worker is available for employment and the Board may extend its assistance for a further period of up to six months.

Assessment
re: vocational
rehabilitation
services

(5) The Board shall contact every worker who has not returned to work within forty-five days after notice of the accident under section 20 is filed, for the purpose of identifying the worker's need for vocational rehabilitation services, and the Board shall provide such services to the worker if the Board considers it appropriate to do so.

Idem

(6) The Board shall contact every worker,

(a) who has not returned to his or her pre-injury employment or to alternate employment of a nature and at earnings comparable to the pre-injury employment within six months after notice of the accident under section 20 is filed;

- (b) who is not receiving vocational rehabilitation services; and
- (c) who has not completed a vocational rehabilitation program,

in order to offer the worker a vocational rehabilitation assessment and, if the offer is accepted, shall provide the assessment.

(7) If a worker is medically unable to undergo a vocational rehabilitation assessment when contacted by the Board under subsection (6), the Board shall make the offer of an assessment within a reasonable time after the date the worker becomes medically able to undergo the assessment. Idem

(8) The Board shall notify the worker and the employer in writing of the results of a vocational rehabilitation assessment conducted under subsection (6) or (7) and shall send the worker a copy of the assessment. Results of an assessment

REINSTATMENT AND RE-EMPLOYMENT

54b.—(1) This section does not apply in respect of, Application

- (a) employers and workers engaged in the construction industries;
- (b) employers who regularly employ fewer than twenty workers; and
- (c) such classes or subclasses of employers and workers as may be exempted by the regulations.

(2) The employer of a worker who, on the date of injury, had been employed continuously for at least one year by the employer, Obligation to reinstate or re-employ

- (a) shall reinstate the worker in the position the worker held on the date of injury or provide the worker with alternate employment of a nature and at earnings comparable to the worker's employment on that date; or
- (b) if the worker is unable to perform the essential duties of a position described in clause (a), shall offer the worker the first opportunity to accept suitable employment that may become available with the employer.

Duration of
the
employer's
obligation

(3) An employer is obligated under subsection (2) until the day that is the earliest of,

- (a) two years after the date of the injury to the worker;
- (b) one year after the date the worker is available for employment; and
- (c) the date the worker reaches sixty-five years of age.

Failure of
the employer
to comply

(4) If an employer does not comply with the obligations set out in subsection (2), the Board may,

- (a) levy a penalty on the employer in the amount of 90 per cent of the worker's net average earnings for the year preceding the injury, where necessary restricting the worker's net average earnings to the maximum amount described in section 41; and
- (b) make payments to the worker for a maximum of one year as if the worker were entitled to compensation under section 40, and subsections 40 (2) and (3) apply to the payments with such modifications as the circumstances may require.

Termination
from
employment
of the
worker

(5) An employer who, having reinstated or re-employed a worker in accordance with this section, terminates the employment within six months, is presumed, unless the contrary is shown, not to have fulfilled the employer's obligations under this section, and the employer is liable to the penalty described in clause (4) (a) and the worker may receive the payments described in clause (4) (b).

Board to
determine on
worker's
application

(6) For the purposes of this section, the Board shall determine whether the employer has met the employer's obligations under this section upon receiving an application from the aggrieved worker.

No appeal to
Appeals
Tribunal

(7) Notwithstanding subsection 86o (1), no appeal lies to the Appeals Tribunal from a decision of the Board under this section.

Conflict with
collective
agreements

(8) Where this section conflicts with a collective agreement that is binding upon the employer and the obligations of the employer under this section in respect of a worker afford the worker greater reinstatement or re-employment terms in the circumstances than the terms available to the worker under the collective agreement, this section prevails over the collective agreement.

20. Section 69 of the said Act is amended by adding thereto the following subsection:

(1a) Without restricting the generality of subsection (1), the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations, Idem

- (a) prescribing, for the purposes of clauses 36 (1) (b) and 40 (2) (b) and subsections 45a (2), 135 (5) and (7), the way in which payments received under the Canada Pension Plan and the Quebec Pension Plan are to be included in the calculation of compensation, of the amount that a worker is able to earn or of the sum of a supplement and an award, as the case may be;
- (b) establishing criteria for determining the average earnings of an apprentice, learner or student for the purposes of subsection 43 (6);
- (c) establishing, for the purposes of medical assessments under section 45, a rating schedule setting out the degree of permanent impairment for specified types of permanent impairment and setting out criteria for assessing the degree of permanent impairment of other types of permanent impairment;
- (d) establishing criteria for assessing the personal and vocational characteristics of a worker, for the purposes of clause 45a (3) (c);
- (e) establishing criteria for determining what constitutes suitable and available employment for a worker, for the purposes of clause 45a (3) (e);
- (f) prescribing factors to be considered by the Board for the purposes of clause 45a (3) (f);
- (g) governing pensions payable to workers, their spouses and their dependants under section 45b;
- (h) governing the investment of amounts in, and payments out of, the fund established under subsection 45b (10);
- (i) exempting classes or subclasses of employers or workers from the application of section 54b;

- (j) establishing criteria for determining how many persons are regularly employed by an employer, for the purposes of clause 54b (1) (b);
- (k) establishing criteria for determining what constitutes alternative employment of a nature and at earnings comparable to a worker's pre-injury employment, for the purposes of clause 54b (2) (a);
- (l) establishing criteria for determining the essential duties of a position for the purposes of clause 54b (2) (b).

21.—(1) Clause 71 (3) (h) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after "disabled" in the fifth line "or impaired".

(2) Clause 71 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after "disabled" in the fifth line "or impaired".

22.—(1) Clause 75 (2) (d) of the said Act is amended by inserting after "disability" in the first line "or impairment".

(2) Clause 75 (2) (e) of the said Act is amended by striking out "disability" in the first line and inserting in lieu thereof "impairment".

(3) Clause 75 (2) (g) of the said Act is repealed and the following substituted therefor:

(g) the future loss of earnings by reason of any injury.

(4) Subsection 75 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding thereto the following clause:

(n) whether an employer has fulfilled the employer's obligation under section 54b to reinstate or re-employ a worker.

23. Section 86p of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

(6a) Subsections 83 (3) and (4) apply with necessary modifications to the chairman, vice-chairman and other members of the Panel and to the officers and employees of the Panel.

24. Section 86q of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

(4) Subsections 83 (3) and (4) apply with necessary modifications to the officers and employees of the Office of the Worker Adviser.

Application
of subss.
83 (3, 4)

25. Section 86r of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

(3) Subsections 83 (3) and (4) apply with necessary modifications to the officers and employees of the Office of the Employer Adviser.

Application
of subss.
83 (3, 4)

26.—(1) Subsection 122 (1) of the said Act is amended by striking out “disabled” in the second line and inserting in lieu thereof “impaired” and by striking out “disablement” in the seventh line and inserting in lieu thereof “impairment”.

(2) Subsection 122 (11) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 4, is further amended by striking out “disability” in the third line and inserting in lieu thereof “impairment” and by striking out “disablement” in the last line and inserting in lieu thereof “impairment”.

27. Section 123 of the said Act is amended by adding thereto the following subsection:

(3a) Subsections 83 (3) and (4) apply with necessary modifications to officers and employees of an association.

Application
of subss.
83 (3, 4)

28. Part III of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37 and amended by 1985, chapter 3, sections 5, 6, 7, 8 and 9, is repealed and the following substituted therefor:

PART III

TRANSITIONAL PROVISIONS

132. In this Part,

Definitions

“pre-1985 Act” means this Act as it read on the 31st day of March, 1985, as amended by the Statutes of Ontario, 1984, chapter 58, section 37 and 1985, chapter 3, sections 6, 7, 8 and 9;

“pre-1985 injury” means,

- (a) a personal injury by accident or an industrial disease that occurred before the 1st day of April, 1985, or
- (b) death that occurred before the 1st day of April, 1985, resulting from an injury by accident or an industrial disease;

“pre-1988 Act” means this Act as it read immediately before the coming into force of this definition, excluding Part III thereof;

“pre-1988 injury” means a personal injury by accident or an industrial disease that occurred on or after the 1st day of April, 1985 and before the coming into force of section 45a of this Act.

Pre-1985 Act continues to apply

133.—(1) Except as provided in this section, the pre-1985 Act continues to apply to pre-1985 injuries.

Exception

(2) Subsections 43 (5), (5a), (5b) and (5c) of the pre-1985 Act cease to apply to pre-1985 injuries on the day this section comes into force.

Pre-1988 Act continues to apply

134.—(1) Except as provided in this section, the pre-1988 Act continues to apply to pre-1988 injuries.

Exception

(2) Subsections 45 (5), (6), (7) and (8) of the pre-1988 Act cease to apply to pre-1988 injuries on the day this section comes into force.

PERMANENT PARTIAL DISABILITY SUPPLEMENTS

Definition of worker

135.—(1) In this section, “worker” means a worker who is disabled as a result of a pre-1985 injury or a pre-1988 injury.

Application

(2) This section applies in respect of workers whose disability is significantly greater than is usual for the nature and degree of the injury from which the disability arises.

Supplementary benefits for vocational rehabilitation

(3) If, in the opinion of the Board, a worker is likely to benefit from a vocational rehabilitation program, the Board shall supplement the amount awarded under,

- (a) subsection 43 (1) of the pre-1985 Act, with respect to a pre-1985 injury; or

- (b) subsection 45 (1) of the pre-1988 Act, with respect to a pre-1988 injury,

for permanent partial disability to the worker for the period, if any, during which the worker co-operates in a Board-authorized vocational rehabilitation program which could help the worker to return to work.

(4) Subject to subsection (5), in calculating the amount of a supplement under subsection (3), the Board shall have regard to,

Calculation
of
supplement
under
subs. (3)

- (a) the difference between the average earnings of the worker before the accident and the average earnings after the accident, with respect to a pre-1985 injury; or
- (b) the difference between the net average earnings of the worker before the accident and the net average earnings after the accident, with respect to a pre-1988 injury.

(5) Subject to subsection (6), a supplement under subsection (3) shall be a weekly or other periodic payment of 75 per cent of the difference described in clause (4) (a) with respect to a pre-1985 injury, or 90 per cent of the difference described in clause (4) (b) with respect to a pre-1988 injury.

Maximum
amount of
supplement

(6) The sum of the supplement under subsection (3) and,

Idem

- (a) with respect to a pre-1985 injury, the award made under subsection 43 (1) of the pre-1985 Act shall not exceed 75 per cent of the worker's pre-accident average earnings; and
- (b) with respect to a pre-1988 injury, the award made under subsection 45 (1) of the pre-1988 Act shall not exceed 90 per cent of the worker's pre-accident net average earnings,

and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan.

(7) The Board shall supplement the amount awarded for permanent partial disability under,

Supplement
where
vocational
rehabilitation
not indicated

- (a) subsection 43 (1) of the pre-1985 Act, with respect to a pre-1985 injury; or

- (b) subsection 45 (1) of the pre-1988 Act, with respect to a pre-1988 injury,

to a worker who,

- (c) in the opinion of the Board, is unable to return to work and unlikely to obtain employment following a vocational rehabilitation program; or
- (d) has returned to employment and, in the opinion of the Board, is unlikely to benefit from a vocational rehabilitation program which could lead to employment with earnings comparable to the worker's pre-injury earnings,

R.S.C. 1970,
c. O-6

by an amount not exceeding the full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto.

Duration of
supplement
under
subs. (7)

(8) A supplement under subsection (7) may continue until the worker is eligible for old age security benefits.

Maximum
amount of
supplement
under
subs. (7)

(9) With respect to a worker with a pre-1985 injury, the sum of,

- (a) the supplement under subsection (7);
- (b) the award made under subsection 43 (1) of the pre-1985 Act; and
- (c) the worker's average earnings after the accident,

shall not exceed 75 per cent of the worker's pre-accident average earnings.

Idem

(10) With respect to a worker with a pre-1988 injury, the sum of,

- (a) the supplement under subsection (7);
- (b) the award made under subsection 45 (1) of the pre-1988 Act; and
- (c) the worker's net average earnings after the accident,

shall not exceed 90 per cent of the worker's pre-accident net average earnings.

(11) In making calculations under subsections (9) and (10), the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan.

C.P.P. and
Q.P.P.
payments

(12) The supplement awarded under subsection (7) shall be a weekly or other periodic payment.

Payment of
supplement
under
subs. (7)

(13) The Board shall review, where possible, a supplement awarded under subsection (7) in the twenty-fourth month and in the sixtieth month after the date on which the supplement is awarded.

Review of
supplement
under
subs. (7)

29. Subsection 141 (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 17, section 5, is amended by striking out “(3)” in the second line.

30.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1 to 27 and section 29 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

31. The short title of this Act is the *Workers' Compensation Amendment Act, 1989*.

Short title

Bill 162

An Act to amend the Workers' Compensation Act

The Hon. G. Sorbara
Minister of Labour

1st Reading June 20th, 1988
2nd Reading November 23rd, 1988
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTES

The Bill institutes a system of compensation in which workers who are permanently impaired as a result of a work-related injury receive benefits for future loss of earnings, for non-economic loss and for loss of retirement income (sections 15 and 20).

The existing system of two streams of benefits — one for temporarily disabled workers and one for permanently impaired workers — is modified (sections 6, 10 and 11, subsection 13 (2) and sections 15 and 29). The maximum amount of average earnings upon which compensation may be calculated under the Act is increased (section 12). Compensation of a worker for temporary disability ends after one year or when the worker is determined to be permanently impaired. The worker then may begin to receive benefits for future loss of earnings. Details of workers' eligibility for, and the duration of, these benefits are set out (section 15).

The amount of compensation paid to a worker for future loss of earnings is determined by the Board and is reviewed at two years and again at five years from the date of its original determination (section 15).

Workers who receive benefits for future loss of earnings also accumulate an entitlement to receive retirement income. The amount of the retirement income is proportional to the amount of, and the length of time that the worker received, the benefits for future loss of earnings (section 15).

The amount of compensation for non-economic loss payable to a permanently impaired worker is determined by the percentage of permanent impairment of the worker (section 15). The worker may have his or her medical condition reassessed and the compensation adjusted, if the worker experiences a significant deterioration of condition that was not anticipated when the original medical assessment was made (section 15).

New requirements governing vocational rehabilitation for injured workers are set out (section 19).

Workers who co-operate in vocational rehabilitation programs have their benefits under the Act supplemented while they are taking the program. These supplements are extended to workers receiving benefits under the existing Act (section 28). A supplement is also provided in certain circumstances for workers receiving benefits under the existing Act who are unlikely to benefit from vocational rehabilitation (section 28).

Employers are required for a specified period to reinstate or re-employ workers who have been injured following their recovery (section 19 and subsection 22 (4)).

Employers are required to maintain certain employment benefits of injured workers, in specified circumstances, for one year after the injury occurs (section 3).

Criteria for determining the amount of compensation payable to workers who were apprentices, learners or students at the time of an injury are to be set out in the regulations (section 14).

The authority of the Board to divert a worker's compensation under the Act to the worker's spouse or dependants, in accordance with a court order for support or maintenance, is made subject to the certain limits (section 16).

The existing requirement that physicians and others caring for injured workers provide reports to the Board without additional charge is deleted (section 18).

Protection against civil liability is extended to members, officers and employees of the Industrial Disease Standards Panel, to officers and employees of the Office of the Worker Adviser, the Office of the Employer Adviser and of accident prevention associations, and to medical practitioners conducting assessments in specified circumstances (sections 15, 23, 24, 25 and 27).

The terminology in the Act relating to "disability", referring to economic consequences of an injury, and "impairment", relating to physical and psychological consequences of an injury, is clarified (sections 1, 2, 4, 5, 7, 8 and 9, subsection 13 (1), sections 17 and 21, subsections 22 (1), (2) and (3) and sections 26 and 27).

Bill 162

1989

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (ea) “contributions for employment benefits”, in relation to a worker, means amounts paid in whole or in part by an employer on behalf of the worker or the worker's spouse or dependants for health care, life insurance and pension benefits;

.

- (g) “disability”, in relation to an injured worker, means the loss of earning capacity of the worker that results from an injury.



(2) Clause 1 (1) (i) of the said Act is amended by adding at the end thereof “but does not include contributions made under section 5a for employment benefits”.



(3) The said subsection 1 (1) is further amended by adding thereto the following clauses:

- (la) “impairment”, in relation to an injured worker, means any physical or functional abnormality or loss including disfigurement which results from an injury and any psychological damage arising from the abnormality or loss;

.

- (va) “permanent impairment”, in relation to an injured worker, means impairment that continues to exist

after maximum medical rehabilitation of the worker has been achieved;

(xb) "student" means a person who is pursuing formal education as a full-time or part-time student and is employed by an employer for the purposes of the employer's industry, although not as a learner or an apprentice.

(4) Subclause 1 (1) (z) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 1, is amended by inserting at the end thereof "or student".

2. Subsection 3 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 3, is amended by striking out "disability" in the last line and inserting in lieu thereof "impairment".

3. The said Act is amended by adding thereto the following section:

Maintenance
of
employment
benefits for
injured
worker

5a.—(1) If a worker is absent from employment because of an injury and if the employer at the time of the injury made contributions for employment benefits in respect of the worker, the employer shall continue to make such contributions for employment benefits throughout any absence from work by the worker that occurs during the year after the date of the injury, as long as the worker continues to pay the worker's contributions, if any, for the employment benefits.

Offence

(2) Every employer who fails to comply with subsection (1) is guilty of an offence for each pay period during which the failure to comply continues.

4. Section 13 of the said Act is amended by striking out "disability" wherever it occurs and inserting in lieu thereof in each instance "impairment".

5. Section 23 of the said Act is amended by striking out "permanent disability" in the sixth line and inserting in lieu thereof "compensation".

6. Section 24 of the said Act is amended by inserting after "payment" in the first line "under section 40" and by striking out "hereinafter prescribed" in the last line and inserting in lieu thereof "amount payable under that section".

7. Subsection 27 (1) of the said Act is amended by striking out "if the disability is permanent" in the sixth line.

8. Subsection 28 (1) of the said Act is amended by striking out "disability" in the eighth line and inserting in lieu thereof "impairment".

9. Subsection 32 (1) of the said Act is amended by striking out "disability" in the second line and inserting in lieu thereof "impairment".

10.—(1) Clause 36 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is amended by adding at the end thereof "or 54a".

(2) Subsection 36 (13) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is repealed and the following substituted therefor:

(13) In calculating the compensation payable by way of periodic payments under this section, the Board shall have regard to any payments of survivor benefits for death caused by injury that are received under the Canada Pension Plan or the Quebec Pension Plan.

Deductions
for C.P.P.
and Q.P.P.
payments

(3) Subsection 36 (16) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 3, section 1, is amended by striking out "\$31,500 per annum" in the last line and inserting in lieu thereof "the maximum amount determined under section 41".

11.—(1) Subsection 40 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by adding at the end thereof "or until the worker begins receiving payments under section 45a".

(2) Subsection 40 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan and, where subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of disability resulting from the injury as determined by the Board.

Deductions
for C.P.P.
and Q.P.P.
payments

12. Section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

Maximum
earnings

41.—(1) For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated is,

- (a) \$35,100, effective on the day this section comes into force;
- (b) \$40,000 per annum, effective on the 1st day of January of the year following the year in which this section comes into force; and
- (c) 175 per cent of the average industrial wage for Ontario, determined in accordance with subsection (2), effective one year after the effective date for the amount in clause (b).

Determi-
nation of the
average
industrial
wage

(2) For the purposes of clause (1) (c), the average industrial wage for Ontario is an amount applicable from the 1st day of January to the 31st day of December in a year, the calculation of which is based upon the most recent published material that is available on the 1st day of July of the preceding year, and the amount of which is based upon the estimated weekly earnings industrial aggregate for Ontario as published by Statistics Canada.

13.—(1) Subsection 42 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by striking out “impairment of earning capacity” in the last line and inserting in lieu thereof “degree of disability”.

(2) Subsection 42 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 2, is repealed.

14. Subsection 43 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

Apprentices,
learners and
students

(6) Notwithstanding subsection (1), if a worker was an apprentice, learner or student at the time of the accident, the Board shall determine the worker's average earnings using such criteria as may be prescribed by regulation.

15. Section 45 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the

Statutes of Ontario, 1985, chapter 3, section 3, is repealed and the following substituted therefor:

45.—(1) A worker who suffers permanent impairment as a result of an injury is entitled to receive an amount for non-economic loss in addition to any other benefit receivable under this Act.

Non-economic loss where permanent impairment

(2) The amount for a worker's non-economic loss from an injury is determined by multiplying,

Amount for non-economic loss

(a) the percentage of the worker's permanent impairment arising from the injury as determined by the Board; and

(b) \$45,000,

(i) plus \$1,000 for each year of age of the worker under forty-five years at the time of the injury, to a maximum of \$20,000, or

(ii) minus \$1,000 for each year of age of the worker over forty-five years at the time of the injury, to a maximum of \$20,000.

(3) Payment of the amount for non-economic loss shall be by lump sum unless,

Payment of the amount

(a) the amount is greater than \$10,000; and

(b) the worker elects, by notice in writing to the Board, to receive the amount in equal monthly payments.

(4) The Board shall determine the degree of a worker's permanent impairment expressed as a percentage of total permanent impairment having regard to medical assessments conducted under this section.

Determination of the percentage of permanent impairment

(5) A medical practitioner who conducts a medical assessment under this section shall,

Medical assessment

(a) examine the worker;

(b) assess the degree of permanent impairment of the worker according to the prescribed rating schedule, having regard to the existing and anticipated likely future consequences of the injury; and

(c) promptly forward a copy of the results of the medical assessment to the Board.

Initial
medical
assessment

(6) After maximum medical rehabilitation of an injured worker has been achieved, the Board shall appoint a medical practitioner who shall conduct a medical assessment of the worker.

Notification
of worker
and employer

(7) Upon receiving the results of a medical assessment conducted under subsection (6), the Board shall determine the percentage of permanent impairment of a worker and shall send notice of its decision to the worker and to the employer together with,

- (a) for the worker, a copy of the results of the medical assessment; and
- (b) for the employer, notice of the degree of permanent impairment of the worker found by the medical practitioner.

Request for
reconsider-
ation

(8) A worker or employer may, within ninety days after the decision of the Board is mailed under subsection (7), request that the Board reconsider its decision respecting the percentage of permanent impairment of the worker.

Selection of
medical
practitioner

(9) Upon receiving a request for reconsideration under subsection (8), the Board shall provide the worker and the employer with a list of at least three medical practitioners, selected from a roster established under subsection (16), from among whom the worker and the employer, by agreement and within thirty days after receiving the list, may select a person who shall conduct a medical assessment.

Idem

(10) If the worker and the employer fail to agree under subsection (9) upon a person to conduct the medical assessment, the Board shall select a medical practitioner from a roster established under subsection (16) and, where possible, who is not named on the list provided to the worker and the employer, who shall conduct the medical assessment.

Idem

(11) Where, because of the nature of a worker's impairment, the Board is of the opinion that it is impractical to provide a list of the names of at least three medical practitioners under subsection (9), the Board shall appoint such medical practitioner to conduct the medical assessment of the worker as the Board considers appropriate in the circumstances.

Reconsider-
ation and
notice

(12) Upon receiving the results of a medical assessment conducted as a result of a request under subsection (8), the Board shall reconsider its decision respecting the percentage of permanent impairment of the worker and shall promptly

send notice of its decision following its reconsideration to the worker and to the employer together with,

- (a) for the worker, a copy of the results of the medical assessment; and
- (b) for the employer, notice of the degree of permanent impairment of the worker found by the medical practitioner.

(13) A worker, who the Board has determined under this section to have a permanent impairment and who suffers a significant deterioration of condition that was not anticipated at the time of the most recent medical assessment under this section, may apply to the Board to reconsider the worker's percentage of permanent impairment, and subsections (5) to (12) apply to the reconsideration as though it were an initial determination by the Board under this section, with such modifications as the circumstances require.

Reconsideration following unanticipated deterioration

(14) No worker may apply under subsection (13) until twelve months have elapsed from the most recent decision by the Board respecting percentage of permanent impairment of the worker, and no worker may apply more than twice under subsection (13).

Time for applying

(15) Notwithstanding subsection 86o (1), no appeal lies to the Appeals Tribunal from a decision of the Board under this section or in respect of medical assessment conducted under this section.

No appeal to Appeals Tribunal

(16) The Lieutenant Governor in Council, on the recommendation of the Board, may establish a roster or rosters of medical practitioners for the purposes of selecting medical practitioners to make medical assessments under this section.

Roster of medical practitioners

(17) A medical practitioner who conducts an assessment under this section shall be paid such sum for services and expenses as the chairman of the Board may determine.

Remuneration of medical practitioners

(18) Subsections 83 (3) and (4) apply with necessary modifications to all medical practitioners who conduct medical assessments under this section.

Application of subss. 83 (3, 4)

45a.—(1) A worker who suffers injury resulting in permanent impairment or resulting in temporary disability for twelve continuous months is entitled to compensation for future loss of earnings arising from the injury.

Compensation for future loss of earnings

Amount of
compensation

(2) Subject to subsection (4), the amount of compensation payable to a worker for future loss of earnings arising from an injury is equal to 90 per cent of the difference between,

- (a) the worker's net average earnings before the injury, having regard to the effect of inflation upon this amount; and
- (b) the net average amount that the Board considers that the worker is able to earn after the injury in suitable and available employment,

for such period, up to the time that the worker reaches sixty-five years of age, as the Board considers appropriate in the circumstances.

Earnings
from suitable
and available
employment

(3) For the purposes of subsection (2), in determining the amount that a worker is able to earn in suitable and available employment, the Board shall have regard to,

- (a) the net average earnings, if any, of the worker at the time the Board determines compensation under this section;
- (b) any disability payments the worker may receive for the injury under the Canada Pension Plan or the Quebec Pension Plan;
- (c) the personal and vocational characteristics of the worker;
- (d) the prospects for successful medical and vocational rehabilitation of the worker;
- (e) what constitutes suitable and available employment for the worker; and
- (f) such other factors as may be prescribed in the regulations.

Compensation for
older workers

(4) The minimum amount of compensation payable under this section to a worker,

- (a) who is at least fifty-five years of age when the Board determines or reviews the amount of the worker's compensation under this section;
- (b) who has not returned to work; and

- (c) who, in the opinion of the Board, is unlikely to benefit from a vocational rehabilitation program which could help the worker return to work,

is the amount of the full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto.

R.S.C. 1985,
c. O-9

(5) If a worker who is receiving compensation under this section is co-operating in a Board-authorized vocational or medical rehabilitation program,

Supplement
to compen-
sation

- (a) that began before the date of the Board's review under clause (8) (a); or
- (b) that began within twelve months after a determination is made under subsection 45 (13) of an anticipated deterioration in the worker's condition,

the amount of compensation otherwise determined under this section shall be supplemented so that the total compensation payable to the worker while the worker is co-operating in the rehabilitation program is equal to 90 per cent of the worker's pre-injury net average earnings.

(6) Where possible, the Board shall determine the amount of compensation payable to a worker under this section,

Determi-
nation of
compensation

- (a) in the twelfth consecutive month during which the worker is temporarily disabled;
- (b) within one year after notice of the accident in which the worker was injured is given under section 20, if during that year the Board determines that the worker is permanently impaired; or
- (c) within eighteen months after notice of the accident in which the worker was injured is given under section 20, if the worker's medical condition precludes a determination within the time stated in clause (a) or (b), whichever applies.

(7) The Board may extend the time limits set out in subsection (6) in the case of a worker who is not receiving compensation under this Act and whose entitlement to compensation is in dispute.

Idem

(8) Where possible, the Board shall review its determination of the amount of compensation payable to a worker under this section,

Review of
amount of
compensation

- (a) in the twenty-fourth month after the date of its initial determination;
- (b) in the sixtieth month after the date of its initial determination; and
- (c) within twenty-four months after a reconsideration of the percentage of permanent impairment of a worker, under subsection 45 (13), results in a determination of increased permanent impairment of the worker,

but the Board shall not vary the amount of compensation payable as a result of a review unless the amount of the variation would be equal to at least 10 per cent of the amount of compensation being paid at the time of the review.

Payment of
compensation

(9) Compensation for future loss of earnings is payable in monthly or other periodic payments except as provided in subsection (10).

Commutation
of amount
payable

(10) If, following the review under clause (8) (b) or (c), the amount of compensation determined to be payable to a worker under this section is 10 per cent or less of the amount of compensation payable for full loss of earnings, the Board may commute the periodic amount payable to the worker to a lump sum unless the worker elects to receive the compensation in periodic payments.

Benefits for
loss of
retirement
income

45b.—(1) For the purpose of providing a worker who is receiving compensation under section 45a with a retirement pension, the Board shall set aside for the worker additional funds equal to 10 per cent of every payment made to the worker under section 45a.

Payments
deemed to
be made to
worker

(2) Payments to the spouse or dependants of a worker made by the Board under section 50 out of funds otherwise payable to the worker under section 45a shall be deemed to be payments to the worker for the purposes of subsection (1).

Entitlement
to retirement
income

(3) Each worker on whose behalf the Board sets aside funds under subsection (1), upon reaching sixty-five years of age, shall receive a retirement pension under this section.

Survivor
benefits

(4) Where a worker who is receiving a retirement pension or for whom funds are being set aside under this section dies, the spouse and dependants of the worker shall receive such benefits as may be prescribed by regulation.

(5) Notwithstanding subsection (4), a spouse and dependants who receive compensation under section 36 are not entitled to receive benefits under this section.

Exception

(6) A worker for whom funds are being set aside under subsection (1) may select the payment scheme for the worker's retirement pension from among the schemes and subject to the restrictions prescribed in the regulations.

Payment of retirement income

(7) Notwithstanding subsection (6), if the annual pension to which a worker becomes entitled upon reaching sixty-five years of age is less than \$1,000, the Board shall pay the worker's retirement pension under this section as a lump sum.

Idem

(8) Retirement pensions and other benefits payable to or in respect of a worker under this section shall be calculated on the basis of the funds set aside for the worker plus the accumulated investment income thereon.

Calculation of pensions and benefits

(9) An employer that is individually liable to pay compensation under this Act shall pay the funds set aside under subsection (1) to the Board.

Employer payment

(10) The Board shall establish a fund into which funds set aside under subsection (1) shall be deposited and shall invest the fund in accordance with such procedures and restrictions as may be set out in the regulations.

Fund to be established

16. Subsection 50 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 13, is repealed and the following substituted therefor:

(1) Where a worker is entitled to compensation under this Act and the worker's spouse is entitled or the worker's dependants are entitled to support or maintenance under a court order, the Board shall divert such portion of the compensation payable to the worker in each periodic payment as is permitted under subsection (1a),

Garnishment for family support

(a) in accordance with a garnishment notice issued by a court in Ontario; and

(b) to the extent of default or arrears accruing after the 1st day of April, 1985, under the court order.

(1a) Garnishment of compensation under subsection (1) is subject to the limits set out in section 7 of the *Wages Act* and compensation payable under this Act shall be deemed to be wages for the purposes of the *Wages Act*.

R.S.O. 1980, c. 526 applies

17.—(1) Clause 52 (1) (c) of the said Act is amended by striking out “disability” in the second line and inserting in lieu thereof “impairment”.

(2) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 3, section 4, is amended by striking out “disability” in the fifth line and inserting in lieu thereof “impairment”.

18. Section 53 of the said Act is amended by striking out “without additional charge” in the fourth line.

19. The said Act is further amended by adding thereto the following sections:

Application

54a.—(1) This section applies in respect of a worker who receives benefits under section 40.

Vocational
rehabilitation

(2) Where, in the opinion of the Board, a worker should be provided with a vocational rehabilitation program, the Board, in consultation with the worker and, where possible, the employer and the worker's physician, shall design and provide the worker with a vocational rehabilitation program.

Particulars of
program

(3) A vocational rehabilitation program referred to in subsection (2) may include vocational training, language training, general skills upgrading, refresher courses, employment counselling (including training in job search skills and the identification of employment opportunities), assistance in seeking employment and assistance in adapting the work place of an employer to accommodate the worker.

Entitlement
to job search
assistance

(4) If a worker's vocational rehabilitation program under this section includes assistance in seeking employment, the Board shall assist the worker to search for employment for a period of up to six months after the worker is available for employment and the Board may extend its assistance for a further period of up to six months.

Assessment
re: vocational
rehabilitation
services

(5) The Board shall contact every worker who has not returned to work within forty-five days after notice of the accident under section 20 is filed, for the purpose of identifying the worker's need for vocational rehabilitation services, and the Board shall provide such services to the worker if the Board considers it appropriate to do so.

Idem

(6) The Board shall contact every worker,

(a) who has not returned to his or her pre-injury employment or to alternate employment of a nature

and at earnings comparable to the pre-injury employment within six months after notice of the accident under section 20 is filed;

- (b) who is not receiving vocational rehabilitation services; and
- (c) who has not completed a vocational rehabilitation program,

in order to offer the worker a vocational rehabilitation assessment and, if the offer is accepted, shall provide the assessment.

(7) If a worker is medically unable to undergo a vocational rehabilitation assessment when contacted by the Board under subsection (6), the Board shall make the offer of an assessment within a reasonable time after the date the worker becomes medically able to undergo the assessment. Idem

(8) The Board shall notify the worker and the employer in writing of the results of a vocational rehabilitation assessment conducted under subsection (6) or (7) and shall send the worker a copy of the assessment. Results of an assessment

REINSTATEMENT AND RE-EMPLOYMENT

54b.—(1) This section does not apply in respect of, Application

- (a) employers and workers engaged in the construction industries;
- (b) employers who regularly employ fewer than twenty workers; and
- (c) such classes or subclasses of employers and workers as may be exempted by the regulations.

(2) The employer of a worker who, on the date of injury, had been employed continuously for at least one year by the employer, Obligation to reinstate or re-employ

- (a) shall reinstate the worker in the position the worker held on the date of injury or provide the worker with alternate employment of a nature and at earnings comparable to the worker's employment on that date; or
- (b) if the worker is unable to perform the essential duties of a position described in clause (a), shall

offer the worker the first opportunity to accept suitable employment that may become available with the employer.

Duration of
the
employer's
obligation

(3) An employer is obligated under subsection (2) until the day that is the earliest of,

- (a) two years after the date of the injury to the worker;
- (b) one year after the date the worker is available for employment; and
- (c) the date the worker reaches sixty-five years of age.

Failure of
the employer
to comply

(4) If an employer does not comply with the obligations set out in subsection (2), the Board may,

- (a) levy a penalty on the employer in the amount of 90 per cent of the worker's net average earnings for the year preceding the injury, where necessary restricting the worker's net average earnings to the maximum amount described in section 41; and
- (b) make payments to the worker for a maximum of one year as if the worker were entitled to compensation under section 40, and subsections 40 (2) and (3) apply to the payments with such modifications as the circumstances may require.

Termination
from
employment
of the
worker

(5) An employer who, having reinstated or re-employed a worker in accordance with this section, terminates the employment within six months, is presumed, unless the contrary is shown, not to have fulfilled the employer's obligations under this section, and the employer is liable to the penalty described in clause (4) (a) and the worker may receive the payments described in clause (4) (b).

Board to
determine on
worker's
application

(6) For the purposes of this section, the Board shall determine whether the employer has met the employer's obligations under this section upon receiving an application from the aggrieved worker.

No appeal to
Appeals
Tribunal

(7) Notwithstanding subsection 86o (1), no appeal lies to the Appeals Tribunal from a decision of the Board under this section.

Conflict with
collective
agreements

(8) Where this section conflicts with a collective agreement that is binding upon the employer and the obligations of the employer under this section in respect of a worker afford the worker greater reinstatement or re-employment terms in the

circumstances than the terms available to the worker under the collective agreement, this section prevails over the collective agreement.

20. Section 69 of the said Act is amended by adding thereto the following subsection:

(1a) Without restricting the generality of subsection (1), the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations, ^{Idem}

- (a) prescribing, for the purposes of clauses 36 (1) (b) and 40 (2) (b) and subsections 45a (2), 135 (5) and (7), the way in which payments received under the Canada Pension Plan and the Quebec Pension Plan are to be included in the calculation of compensation, of the amount that a worker is able to earn or of the sum of a supplement and an award, as the case may be;
- (b) establishing criteria for determining the average earnings of an apprentice, learner or student for the purposes of subsection 43 (6);
- (c) establishing, for the purposes of medical assessments under section 45, a rating schedule setting out the degree of permanent impairment for specified types of permanent impairment and setting out criteria for assessing the degree of permanent impairment of other types of permanent impairment;
- (d) establishing criteria for assessing the personal and vocational characteristics of a worker, for the purposes of clause 45a (3) (c);
- (e) establishing criteria for determining what constitutes suitable and available employment for a worker, for the purposes of clause 45a (3) (e);
- (f) prescribing factors to be considered by the Board for the purposes of clause 45a (3) (f);
- (g) governing pensions payable to workers, their spouses and their dependants under section 45b;
- (h) governing the investment of amounts in, and payments out of, the fund established under subsection 45b (10);

- (i) exempting classes or subclasses of employers or workers from the application of section 54b;
- (j) establishing criteria for determining how many persons are regularly employed by an employer, for the purposes of clause 54b (1) (b);
- (k) establishing criteria for determining what constitutes alternative employment of a nature and at earnings comparable to a worker's pre-injury employment, for the purposes of clause 54b (2) (a);
- (l) establishing criteria for determining the essential duties of a position for the purposes of clause 54b (2) (b).

21.—(1) Clause 71 (3) (h) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after “disabled” in the fifth line “or impaired”.

(2) Clause 71 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after “disabled” in the fifth line “or impaired”.

22.—(1) Clause 75 (2) (d) of the said Act is amended by inserting after “disability” in the first line “or impairment”.

(2) Clause 75 (2) (e) of the said Act is amended by striking out “disability” in the first line and inserting in lieu thereof “impairment”.

(3) Clause 75 (2) (g) of the said Act is repealed and the following substituted therefor:

- (g) the future loss of earnings by reason of any injury.

(4) Subsection 75 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding thereto the following clause:

- (n) whether an employer has fulfilled the employer's obligation under section 54b to reinstate or re-employ a worker.

23. Section 86p of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

(6a) Subsections 83 (3) and (4) apply with necessary modifications to the chairman, vice-chairman and other members of the Panel and to the officers and employees of the Panel.

Application
of subss.
83 (3, 4)

24. Section 86q of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

(4) Subsections 83 (3) and (4) apply with necessary modifications to the officers and employees of the Office of the Worker Adviser.

Application
of subss.
83 (3, 4)

25. Section 86r of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

(3) Subsections 83 (3) and (4) apply with necessary modifications to the officers and employees of the Office of the Employer Adviser.

Application
of subss.
83 (3, 4)

26.—(1) Subsection 122 (1) of the said Act is amended by striking out “disabled” in the second line and inserting in lieu thereof “impaired” and by striking out “disablement” in the seventh line and inserting in lieu thereof “impairment”.

(2) Subsection 122 (11) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 4, is further amended by striking out “disability” in the third line and inserting in lieu thereof “impairment” and by striking out “disablement” in the last line and inserting in lieu thereof “impairment”.

27. Section 123 of the said Act is amended by adding thereto the following subsection:

(3a) Subsections 83 (3) and (4) apply with necessary modifications to officers and employees of an association.

Application
of subss.
83 (3, 4)

28. Part III of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37 and amended by 1985, chapter 3, sections 5, 6, 7, 8 and 9, is repealed and the following substituted therefor:

PART III

TRANSITIONAL PROVISIONS

132. In this Part,

Definitions

“pre-1985 Act” means this Act as it read on the 31st day of March, 1985, as amended by the Statutes of Ontario, 1984, chapter 58, section 37 and 1985, chapter 3, sections 6, 7, 8 and 9;

“pre-1985 injury” means,

- (a) a personal injury by accident or an industrial disease that occurred before the 1st day of April, 1985, or
- (b) death that occurred before the 1st day of April, 1985, resulting from an injury by accident or an industrial disease;

“pre-1988 Act” means this Act as it read immediately before the coming into force of this definition, excluding Part III thereof;

“pre-1988 injury” means a personal injury by accident or an industrial disease that occurred on or after the 1st day of April, 1985 and before the coming into force of section 45a of this Act.

Pre-1985 Act
continues to
apply

133.—(1) Except as provided in this section, the pre-1985 Act continues to apply to pre-1985 injuries.

Exception

(2) Subsections 43 (5), (5a), (5b) and (5c) of the pre-1985 Act cease to apply to pre-1985 injuries on the day this section comes into force.

Pre-1988 Act
continues to
apply

134.—(1) Except as provided in this section, the pre-1988 Act continues to apply to pre-1988 injuries.

Exception

(2) Subsections 45 (5), (6), (7) and (8) of the pre-1988 Act cease to apply to pre-1988 injuries on the day this section comes into force.

PERMANENT PARTIAL DISABILITY SUPPLEMENTS

Definition of
worker

135.—(1) In this section, “worker” means a worker who is disabled as a result of a pre-1985 injury or a pre-1988 injury.

Application

(2) This section applies in respect of workers whose disability is significantly greater than is usual for the nature and degree of the injury from which the disability arises.

(3) If, in the opinion of the Board, a worker is likely to benefit from a vocational rehabilitation program, the Board shall supplement the amount awarded under,

Supplementary benefits for vocational rehabilitation

- (a) subsection 43 (1) of the pre-1985 Act, with respect to a pre-1985 injury; or
- (b) subsection 45 (1) of the pre-1988 Act, with respect to a pre-1988 injury,

for permanent partial disability to the worker for the period, if any, during which the worker co-operates in a Board-authorized vocational rehabilitation program which could help the worker to return to work.

(4) Subject to subsection (5), in calculating the amount of a supplement under subsection (3), the Board shall have regard to,

Calculation of supplement under subs. (3)

- (a) the difference between the average earnings of the worker before the accident and the average earnings after the accident, with respect to a pre-1985 injury; or
- (b) the difference between the net average earnings of the worker before the accident and the net average earnings after the accident, with respect to a pre-1988 injury.

(5) Subject to subsection (6), a supplement under subsection (3) shall be a weekly or other periodic payment of 75 per cent of the difference described in clause (4) (a) with respect to a pre-1985 injury, or 90 per cent of the difference described in clause (4) (b) with respect to a pre-1988 injury.

Maximum amount of supplement

(6) The sum of the supplement under subsection (3) and,

Idem

- (a) with respect to a pre-1985 injury, the award made under subsection 43 (1) of the pre-1985 Act shall not exceed 75 per cent of the worker's pre-accident average earnings; and
- (b) with respect to a pre-1988 injury, the award made under subsection 45 (1) of the pre-1988 Act shall not exceed 90 per cent of the worker's pre-accident net average earnings,

and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker

receives under the Canada Pension Plan and the Quebec Pension Plan.

Supplement
where
vocational
rehabilitation
not indicated

(7) The Board shall supplement the amount awarded for permanent partial disability under,

- (a) subsection 43 (1) of the pre-1985 Act, with respect to a pre-1985 injury; or
- (b) subsection 45 (1) of the pre-1988 Act, with respect to a pre-1988 injury,

to a worker who,

- (c) in the opinion of the Board, is unable to return to work and unlikely to obtain employment following a vocational rehabilitation program; or
- (d) has returned to employment and, in the opinion of the Board, is unlikely to benefit from a vocational rehabilitation program which could lead to employment with earnings comparable to the worker's pre-injury earnings,

R.S.C. 1985,
c. O-9

by an amount not exceeding the full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto.

Duration of
supplement
under
subs. (7)

(8) A supplement under subsection (7) may continue until the worker is eligible for old age security benefits.

Maximum
amount of
supplement
under
subs. (7)

(9) With respect to a worker with a pre-1985 injury, the sum of,

- (a) the supplement under subsection (7);
- (b) the award made under subsection 43 (1) of the pre-1985 Act; and
- (c) the worker's average earnings after the accident,

shall not exceed 75 per cent of the worker's pre-accident average earnings.

Idem

(10) With respect to a worker with a pre-1988 injury, the sum of,

- (a) the supplement under subsection (7);

- (b) the award made under subsection 45 (1) of the pre-1988 Act; and
- (c) the worker's net average earnings after the accident,

shall not exceed 90 per cent of the worker's pre-accident net average earnings.

(11) In making calculations under subsections (9) and (10), the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan.

C.P.P. and
Q.P.P.
payments

(12) The supplement awarded under subsection (7) shall be a weekly or other periodic payment.

Payment of
supplement
under
subs. (7)

(13) The Board shall review, where possible, a supplement awarded under subsection (7) in the twenty-fourth month and in the sixtieth month after the date on which the supplement is awarded.

Review of
supplement
under
subs. (7)

29. Subsection 141 (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 17, section 5, is amended by striking out "(3)" in the second line.

30.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

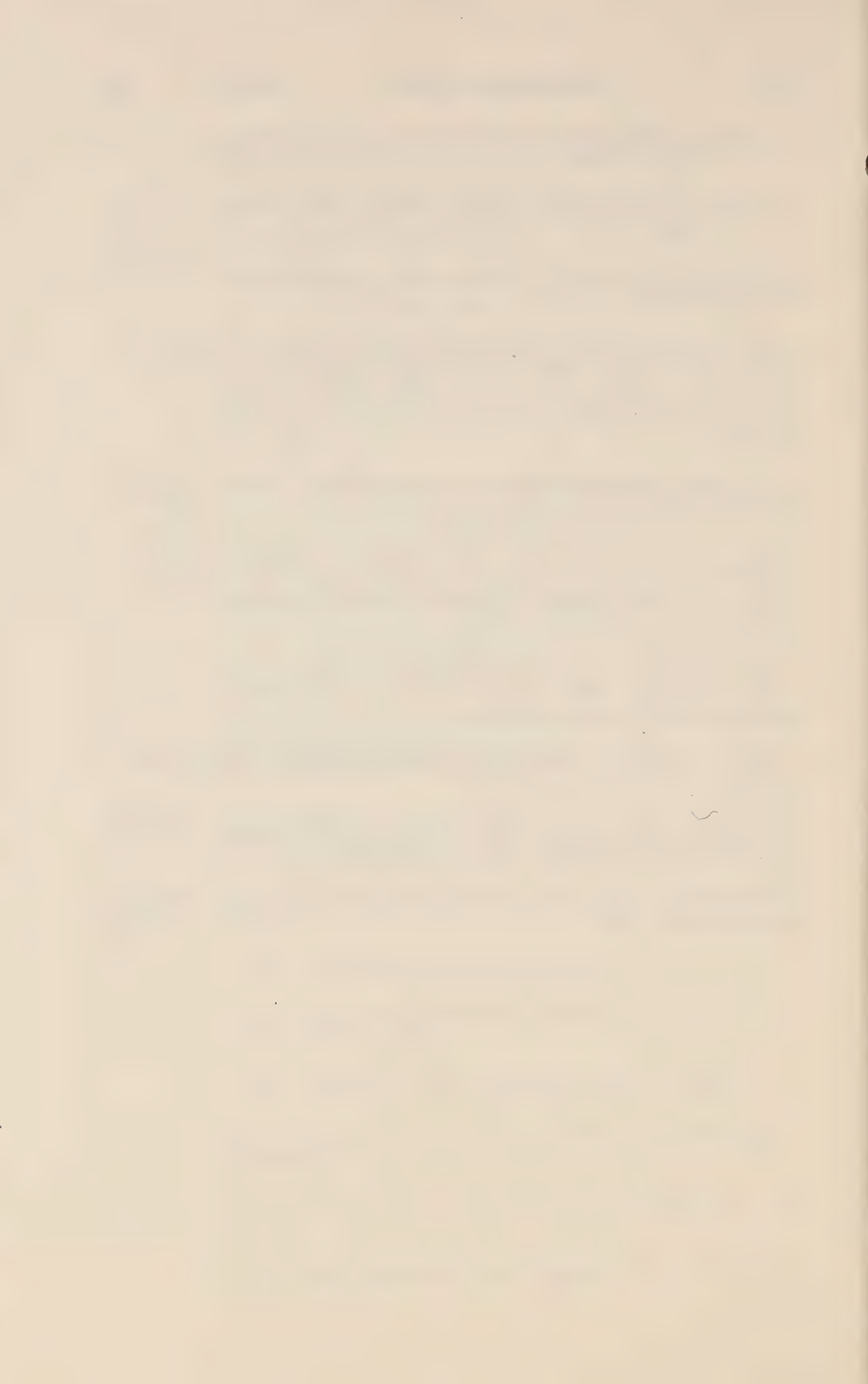
Commence-
ment

(2) Sections 1 to 27 and section 29 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

31. The short title of this Act is the *Workers' Compensation Amendment Act, 1989*.

Short title



Bill 162

An Act to amend the Workers' Compensation Act

The Hon. G. Sorbara
Minister of Labour



<i>1st Reading</i>	June 20th, 1988
<i>2nd Reading</i>	November 23rd, 1988
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill institutes a system of compensation in which workers who are permanently impaired as a result of a work-related injury receive benefits for future loss of earnings, for non-economic loss and for loss of retirement income (sections 15 and 20).

The existing system of two streams of benefits — one for temporarily disabled workers and one for permanently impaired workers — is modified (sections 6, 10 and 11, subsection 13 (2) and sections 15 and 29). The maximum amount of average earnings upon which compensation may be calculated under the Act is increased (section 12). Compensation of a worker for temporary disability ends after one year or when the worker is determined to be permanently impaired. The worker then may begin to receive benefits for future loss of earnings. Details of workers' eligibility for, and the duration of, these benefits are set out (section 15).

The amount of compensation paid to a worker for future loss of earnings is determined by the Board and is reviewed at two years and again at five years from the date of its original determination (section 15).

Workers who receive benefits for future loss of earnings also accumulate an entitlement to receive retirement income. The amount of the retirement income is proportional to the amount of, and the length of time that the worker received, the benefits for future loss of earnings (section 15).

The amount of compensation for non-economic loss payable to a permanently impaired worker is determined by the percentage of permanent impairment of the worker (section 15). The worker may have his or her medical condition reassessed and the compensation adjusted, if the worker experiences a significant deterioration of condition that was not anticipated when the original medical assessment was made (section 15).

New requirements governing vocational rehabilitation for injured workers are set out (section 19).

Workers who co-operate in vocational rehabilitation programs have their benefits under the Act supplemented while they are taking the program. These supplements are extended to workers receiving benefits under the existing Act (section 28). A supplement is also provided in certain circumstances for workers receiving benefits under the existing Act who are unlikely to benefit from vocational rehabilitation (section 28).

Employers are required for a specified period to reinstate or re-employ workers who have been injured following their recovery (section 19 and subsection 22 (4)).

Employers are required to maintain certain employment benefits of injured workers, in specified circumstances, for one year after the injury occurs (section 3).

Criteria for determining the amount of compensation payable to workers who were apprentices, learners or students at the time of an injury are to be set out in the regulations (section 14).

The authority of the Board to divert a worker's compensation under the Act to the worker's spouse or dependants, in accordance with a court order for support or maintenance, is made subject to the certain limits (section 16).

The existing requirement that physicians and others caring for injured workers provide reports to the Board without additional charge is deleted (section 18).

Protection against civil liability is extended to members, officers and employees of the Industrial Disease Standards Panel, to officers and employees of the Office of the Worker Adviser, the Office of the Employer Adviser and of accident prevention associations, and to medical practitioners conducting assessments in specified circumstances (sections 15, 23, 24, 25 and 27).

The terminology in the Act relating to "disability", referring to economic consequences of an injury, and "impairment", relating to physical and psychological consequences of an injury, is clarified (sections 1, 2, 4, 5, 7, 8 and 9, subsection 13 (1), sections 17 and 21, subsections 22 (1), (2) and (3) and sections 26 and 27).

Bill 162

1989

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (ea) “contributions for employment benefits”, in relation to a worker, means amounts paid in whole or in part by an employer on behalf of the worker or the worker's spouse or dependants for health care, life insurance and pension benefits;

.

- (g) “disability”, in relation to an injured worker, means the loss of earning capacity of the worker that results from an injury.

(2) Clause 1 (1) (i) of the said Act is amended by adding at the end thereof “but does not include contributions made under section 5a for employment benefits”.

(3) The said subsection 1 (1) is further amended by adding thereto the following clauses:

- (la) “impairment”, in relation to an injured worker, means any physical or functional abnormality or loss including disfigurement which results from an injury and any psychological damage arising from the abnormality or loss;

.

- (va) “permanent impairment”, in relation to an injured worker, means impairment that continues to exist

after maximum medical rehabilitation of the worker has been achieved;

(xb) "student" means a person who is pursuing formal education as a full-time or part-time student and is employed by an employer for the purposes of the employer's industry, although not as a learner or an apprentice.

(4) Subclause 1 (1) (z) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 1, is amended by inserting at the end thereof "or student".

2. Subsection 3 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 3, is amended by striking out "disability" in the last line and inserting in lieu thereof "impairment".

3. The said Act is amended by adding thereto the following section:

Employment
benefits for
injured
workers

5a.—(1) An employer, throughout the first year after an injury to a worker, shall make contributions for employment benefits in respect of the worker when the worker is absent from work because of the injury.

Deeming
provision

(2) For the purpose of determining a worker's entitlement to benefits under a benefit plan, fund or arrangement, a worker shall be deemed, for one year after the date the injury occurred, to continue to be employed by the worker's employer on the date of the injury.

Penalty

(3) If the Board finds that an employer has not complied with its obligations under subsection (1), the Board may levy a penalty on the employer to a maximum of the amount of one year's contributions for employment benefits in respect of the worker.

Liability for
loss

(4) The employer is liable to a worker for any loss the worker suffers as a result of the employer's failure to make the contributions required by subsection (1).

Eligibility

(5) Contributions under subsection (1) are required only if,

(a) the employer was making contributions for employment benefits in respect of the worker when the injury occurred; and

- (b) the worker continues to pay his or her contributions, if any, for the employment benefits while absent from work.

(6) If a worker is injured while engaged in employment described in subsection 1 (2) or (4), the worker's employer, other than the employer described in subsection 1 (2) or (4), shall be deemed to be the employer for the purposes of this section.

Emergency
workers

(7) If an employer makes contributions under subsection (1) in respect of a worker described in subsection (6), the employer described in subsection 1 (2) or (4) shall reimburse the employer for the contributions.

Idem

(8) Subsection (1) does not apply to an employer who participates in a multi-employer benefit plan in respect of a worker if, throughout the first year after the worker is injured whenever the worker is absent from work because of the injury,

Multi-
employer
benefit plans

- (a) the plan continues to provide the worker with the benefits to which the worker would otherwise be or become entitled under the plan; and
- (b) the plan does not require contributions from the employer during the absence and does not require the worker to draw on the worker's benefit credits, if any, under the plan during the absence.

(9) A multi-employer benefit plan shall contain and, if it does not do so, shall be deemed to contain provisions sufficient,

Amendm
of multi-
employer
benefit plans

- (a) to enable all employers who participate in the plan to be exempted under subsection (8) from the requirement to make contributions; and
- (b) to provide each worker with the benefits described in subsection (8) in the circumstances described in that subsection.

(10) Subsection (9) shall come into force two years after the date on which this section comes into force.

Commence-
ment

4. Section 13 of the said Act is amended by striking out "disability" wherever it occurs and inserting in lieu thereof in each instance "impairment".

5. Section 23 of the said Act is amended by striking out "permanent disability" in the sixth line and inserting in lieu thereof "compensation".

6. Section 24 of the said Act is amended by inserting after "payment" in the first line "under section 40" and by striking out "hereinafter prescribed" in the last line and inserting in lieu thereof "amount payable under that section".

7. Section 27 of the said Act is repealed.

8. Section 28 of the said Act is repealed.

9. Subsection 32 (1) of the said Act is amended by striking out "disability" in the second line and inserting in lieu thereof "impairment".

10.—(1) Section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 9 and amended by 1985, chapter 3, section 1, is further amended by adding thereto the following subsections:

Vocational
rehabilitation

(1a) The spouse of a deceased worker may apply to the Board within one year after the worker's death for a vocational rehabilitation assessment, and after an assessment the Board shall provide a vocational rehabilitation program to the spouse if the Board considers it appropriate to do so.

Idem

(1b) Subsections 54a (11) and (12) apply with respect to a vocational rehabilitation program provided to a spouse.

(2) Subsection 36 (13) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is repealed and the following substituted therefor:

Deductions
for C.P.P.
and Q.P.P.
payments

(13) In calculating the compensation payable by way of periodic payments under this section, the Board shall have regard to any payments of survivor benefits for death caused by injury that are received under the Canada Pension Plan or the Quebec Pension Plan in respect of the deceased worker.

(3) Subsection 36 (16) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 3, section 1, is amended by striking out "\$31,500 per annum" in the last line and inserting in lieu thereof "the maximum amount determined under section 41".

11.—(1) Subsection 40 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is

amended by adding at the end thereof "or until the worker begins receiving payments under section 45a".

(2) Subsection 40 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:



(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any disability payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan with respect to the injury and, if subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of disability resulting from the injury as determined by the Board.

Deductions
for C.P.P.
and Q.P.P.
payments

12. Section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:



41.—(1) For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated,

Maximum
earnings

- (a) effective on the day this subsection comes into force, is the maximum amount of average earnings determined under this section as it read immediately before this subsection came into force;
- (b) effective on the 1st day of January of the year following the year in which this section comes into force, is \$42,000; and
- (c) effective on the 1st day of January of each year after the effective date for the amount in clause (b), is 175 per cent of the average industrial wage for Ontario for the year, determined in accordance with subsection (3).

(2) Part IV of this Act does not apply to the maximum amount of average earnings determined under subsection (1).

Application
of
Part IV

(3) For the purposes of clause (1) (c), the average industrial wage for Ontario is an amount applicable from the 1st day of January to the 31st day of December in a year, the calculation of which is based upon the most recent published material that is available on the 1st day of July of the preceding year, and the amount of which is based upon the estimated weekly earnings industrial aggregate for Ontario as published by Statistics Canada.

Determi-
nation of the
average
industrial
wage

13.—(1) Subsection 42 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by striking out “impairment of earning capacity” in the last line and inserting in lieu thereof “degree of disability”.

(2) Subsection 42 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 2, is repealed.

14. Subsection 43 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

Apprentices,
learners and
students

(6) Notwithstanding subsection (1), if a worker was an apprentice, learner or student at the time of the accident, the Board shall determine the worker's average earnings using such criteria as may be prescribed by regulation.

15. Section 45 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 3, is repealed and the following substituted therefor:

Non-
economic loss
where
permanent
impairment

45.—(1) A worker who suffers permanent impairment as a result of an injury is entitled to receive compensation for non-economic loss in addition to any other benefit receivable under this Act.

Compen-
sation for
non-economic
loss

(2) The compensation for a worker's non-economic loss from an injury is determined by multiplying,

(a) the percentage of the worker's permanent impairment arising from the injury as determined by the Board; and

(b) \$45,000,

(i) plus \$1,000 for each year of age of the worker under forty-five years at the time of the injury, to a maximum of \$20,000, or

(ii) minus \$1,000 for each year of age of the worker over forty-five years at the time of the injury, to a maximum of \$20,000.

Payment

(3) If the compensation for non-economic loss is greater than \$10,000, it shall be paid as a monthly payment for the life of the worker unless the worker elects to receive the compensation as a lump sum.

(4) If the compensation for non-economic loss is less than or equal to \$10,000, it shall be paid as a lump sum. Idem

(5) The Board shall determine in accordance with the prescribed rating schedule and having regard to medical assessments conducted under this section the degree of a worker's permanent impairment expressed as a percentage of total permanent impairment. Determination by Board

(6) A medical practitioner who conducts a medical assessment under this section shall, Medical assessment

(a) examine the worker; and

(b) assess the extent of the worker's permanent impairment, having regard to the existing and anticipated likely future consequences of the injury.

(7) In conducting a medical assessment, the medical practitioner shall consider any report by the treating physician of an injured worker. Idem

(8) A medical practitioner shall promptly forward a copy of a medical assessment to the Board. Idem

(9) After maximum medical rehabilitation of an injured worker is achieved, a medical assessment of the worker shall be conducted. Requirement for medical assessment

(10) The worker may select a medical practitioner from a roster provided by the Board who shall conduct the worker's medical assessment. Selection of medical practitioner

(11) If a worker does not make a selection under subsection (10) within thirty days after the Board provides the worker with a roster of medical practitioners, a medical practitioner appointed by the Board shall conduct the medical assessment. Idem

(12) The Board shall send a copy of a medical assessment conducted under subsection (9) to the worker and to the employer who employed the worker on the date of the injury. Notification of worker and employer

(13) A worker, an employer or the Board may, within forty-five days after the medical assessment is sent under subsection (12), require a second medical assessment of the worker. Request for second assessment

(14) A worker or an employer who requires a second medical assessment shall give notice thereof to the Board within the forty-five day period referred to in subsection (13). Notice

Selection of
medical
practitioner

(15) If a second medical assessment is required, the Board shall provide the worker and the employer with a list of at least three medical practitioners selected from a roster, from among whom the worker and the employer, by agreement and within thirty days after receiving the list, may select a medical practitioner who shall conduct the medical assessment.

Idem

(16) If the worker and the employer fail to agree upon a medical practitioner to conduct the second medical assessment, the Board shall select a medical practitioner from a roster and, if possible, one who was not named on the list provided to the worker and the employer, and the medical practitioner selected shall conduct the medical assessment.

Idem

(17) If the Board considers it to be impractical to provide a list of medical practitioners under subsection (15) because of the nature of a worker's impairment, the Board shall appoint such medical practitioner to conduct the second medical assessment as the Board considers appropriate.

Notification
of worker
and employer

(18) The Board shall send a copy of the second medical assessment to the worker and the employer.

Board
determination

(19) The Board shall forthwith determine the degree of a worker's permanent impairment,

- (a) after the expiry of the forty-five day period referred to in subsection (14) if a second medical assessment was not required; or
- (b) after it receives a copy of a second medical assessment if one was required.

Notice

(20) The Board shall give notice of its decision to the worker and the employer forthwith after determining the degree of a worker's permanent impairment.

Unanti-
cipated
deterioration

(21) A worker may apply to the Board for a redetermination of the degree of the worker's permanent impairment,

- (a) if the Board has determined that the worker has a permanent impairment; and
- (b) if the worker has suffered a significant deterioration of condition that was not anticipated at the time of the most recent medical assessment under this section.

(22) Subsections (5) to (20) apply to a redetermination as though it were an initial determination by the Board, with such modifications as the circumstances require.

Redetermination

(23) No worker may apply under subsection (21) until twelve months have elapsed from the most recent decision by the Board respecting the degree of permanent impairment of the worker.

Time for applying

(24) The Lieutenant Governor in Council, on the recommendation of the Board, may establish one or more rosters of medical practitioners who are qualified to conduct medical assessments under this section.

Roster of medical practitioners

(25) A medical practitioner who conducts an assessment under this section shall be paid such sum for services and expenses as the chairman of the Board may determine.

Remuneration of medical practitioners

(26) Subsections 83 (3) and (4) apply with necessary modifications to all medical practitioners who conduct medical assessments under this section.

Application of subss. 83 (3, 4)

45a.—(1) A worker who suffers injury resulting in permanent impairment or resulting in temporary disability for twelve continuous months is entitled to compensation for future loss of earnings arising from the injury.

Compensation for future loss of earnings

(2) An injured worker ceases to be eligible for compensation for future loss of earnings when the worker reaches sixty-five years of age.

Duration of compensation

(3) Subject to subsection (8), the amount of compensation payable to a worker for future loss of earnings arising from an injury is equal to 90 per cent of the difference between,

Amount of compensation

(a) the worker's net average earnings before the injury; and

(b) the net average earnings that the worker is likely to be able to earn after the injury in suitable and available employment.


(4) Notwithstanding clause 139 (2) (b), the amount of compensation payable under this section to a worker for future loss of earnings arising from an injury shall be adjusted in accordance with subsections (5) and (6).

Adjustment of amounts

(5) The amount of compensation calculated by the Board under subsection (3), (8) or (13) shall be adjusted in accordance with clause 139 (2) (b).

Idem

Idem

(6) The amount of compensation payable under this section in each year after the year in which the initial calculation is made by the Board shall be adjusted by applying the indexing factor to the amount of the previous year's compensation as adjusted under Part IV. 


Earnings
from suitable
and available
employment


(7) For the purposes of subsection (3), in determining the amount that a worker is likely to be able to earn in suitable and available employment, the Board shall have regard to,

- (a) the net average earnings, if any, of the worker at the time the Board determines compensation under this section;
- (b) any disability payments the worker may receive for the injury under the Canada Pension Plan or the Quebec Pension Plan;
- (c) the personal and vocational characteristics of the worker;
- (d) the prospects for successful medical and vocational rehabilitation of the worker;
- (e) what constitutes suitable and available employment for the worker; and
- (f) such other factors as may be prescribed in the regulations.

Election re:
older workers

R.S.C. 1985,
c. O-9

 (8) A worker may elect to receive an amount equal to a full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto, instead of the amount of compensation determined under subsection (3) or (13) if the worker,

- (a) is at least fifty-five years of age when the Board determines or reviews the amount of the worker's compensation;
- (b) has not returned to work; and
- (c) is unlikely, in the opinion of the Board, to benefit from a vocational rehabilitation program which could help the worker return to work. 

Supplement
to compen-
sation

(9) If a worker who is receiving compensation under this section is co-operating in a Board-authorized vocational or medical rehabilitation program,

- (a) that began before the date of the Board's review under clause (13) (a); or
- (b) that began within twelve months after a determination is made under subsection 45 (21) of an unanticipated deterioration in the worker's condition,

the amount of compensation otherwise determined under this section shall be supplemented so that the total compensation payable to the worker while the worker is co-operating in the rehabilitation program is equal to 90 per cent of the worker's pre-injury net average earnings.

(10) Where possible, the Board shall determine the amount of compensation payable to a worker under this section, Determination of compensation

- (a) in the twelfth consecutive month during which the worker is temporarily disabled;
- (b) within one year after notice of the accident in which the worker was injured is given under section 20, if during that year the Board determines that the worker is permanently impaired; or
- (c) within eighteen months after notice of the accident in which the worker was injured is given under section 20, if the worker's medical condition precludes a determination within the time stated in clause (a) or (b), whichever applies.



(11) Clauses (10) (b) and (c) do not apply with respect to a worker who is permanently impaired by industrial disease. Idem



(12) The Board may extend the time limits set out in subsection (10) in the case of a worker who is not receiving compensation under this Act and whose entitlement to compensation is in dispute. Idem

(13) Where possible, the Board shall review its determination of the amount of compensation payable to a worker under this section, Review of amount of compensation

- (a) in the twenty-fourth month after the date of its initial determination;
- (b) in the sixtieth month after the date of its initial determination; and
- (c) within twenty-four months after a reconsideration of the percentage of permanent impairment of a work-

er, under subsection 45 (21), results in a determination of increased permanent impairment of the worker,

but the Board shall not vary the amount of compensation payable as a result of a review unless the amount of the variation would be equal to at least 10 per cent of the amount of compensation being paid at the time of the review.

Payment of
compensation

(14) Compensation for future loss of earnings is payable in monthly or other periodic payments except as provided in subsection (15).

Commutation
of amount
payable

(15) If, following the review under clause (13) (b) or (c), the amount of compensation determined to be payable to a worker under this section is 10 per cent or less of the amount of compensation payable for full loss of earnings, the Board may commute the periodic amount payable to the worker to a lump sum unless the worker elects to receive the compensation in periodic payments.

Benefits for
loss of
retirement
income

45b.—(1) For the purpose of providing a worker who is receiving compensation under section 45a with a retirement pension, the Board shall set aside for the worker additional funds equal to 10 per cent of every payment made to the worker under section 45a.

Payments
deemed to
be made to
worker

(2) Payments to the spouse or dependants of a worker made by the Board under section 50 out of funds otherwise payable to the worker under section 45a shall be deemed to be payments to the worker for the purposes of subsection (1).

Entitlement
to retirement
income

(3) Each worker on whose behalf the Board sets aside funds under subsection (1), upon reaching sixty-five years of age, shall receive a retirement pension under this section.

Survivor
benefits

(4) If a worker dies before beginning to receive or while receiving a retirement pension under this section, the spouse and dependants of the worker shall receive such benefits as may be prescribed by regulation.

Exception

(5) Notwithstanding subsection (4), a spouse and dependants who receive compensation under section 36 in respect of a worker are not entitled to receive benefits under this section in respect of the worker.

Payment of
retirement
income

(6) A worker for whom funds are being set aside under subsection (1) may select the payment scheme for the worker's retirement pension from among the schemes and subject to the restrictions prescribed in the regulations.

(7) Notwithstanding subsection (6), if the annual pension to which a worker becomes entitled upon reaching sixty-five years of age is less than \$1,000, the Board shall pay the worker's retirement pension under this section as a lump sum. Idem

(8) Retirement pensions and other benefits payable to or in respect of a worker under this section shall be calculated on the basis of the funds set aside for the worker plus the accumulated investment income thereon. Calculation of pensions and benefits

(9) An employer that is individually liable to pay compensation under this Act shall pay the funds set aside under subsection (1) to the Board. Employer payment

(10) The Board shall establish a fund into which funds set aside under subsection (1) shall be deposited and shall invest the fund in accordance with such procedures and restrictions as may be set out in the regulations. Fund to be established

16. Subsection 50 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 13, is repealed and the following substituted therefor:

(1) Where a worker is entitled to compensation under this Act and the worker's spouse is entitled or the worker's dependants are entitled to support or maintenance under a court order, the Board shall divert such portion of the compensation payable to the worker in each periodic payment as is permitted under subsection (1a), Garnishment for family support

(a) in accordance with a garnishment notice issued by a court in Ontario; and

(b) to the extent of default or arrears accruing after the 1st day of April, 1985, under the court order.

➡ (1a) Garnishment of compensation under subsection (1) is subject to the limits and procedures set out in subsections 7 (1) to (5) of the *Wages Act* and compensation payable under this Act, other than funds set aside under subsection 45b (1), shall be deemed to be wages for the purposes of that Act. R.S.O. 1980, c. 526 applies

17.—(1) Clause 52 (1) (c) of the said Act is amended by striking out “disability” in the second line and inserting in lieu thereof “impairment”. 🏠

(2) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 3, section 4, is amended by striking out “disability” in the fifth line and inserting in lieu thereof “impairment”.

18. Section 53 of the said Act is amended by striking out “without additional charge” in the fourth line.

19. The said Act is further amended by adding thereto the following sections:



Vocational
rehabilitation

54a.—(1) This section applies in respect of a worker who is receiving or has received benefits under section 40.

Early
assessment

(2) Within forty-five days after notice of an accident under section 20 is filed, the Board shall contact a worker who has not returned to work, for the purpose of identifying the worker's need for vocational rehabilitation services.

Vocational
rehabilitation
services

(3) The Board shall provide a worker contacted under subsection (2) with vocational rehabilitation services if the Board considers it appropriate to do so.

Idem

(4) Vocational rehabilitation services provided under subsection (3) may include consultation, the provision of information and the planning and design of a vocational rehabilitation program.

Second
contact re:
assessment

(5) The Board shall offer a vocational rehabilitation assessment to every worker,

(a) who has not returned to the worker's pre-injury employment or to alternative employment of a nature and at earnings comparable to the pre-injury employment within six months after notice of the accident under section 20 is filed;

(b) who is not receiving vocational rehabilitation services; and

(c) who is not receiving or has not received a vocational rehabilitation program.

Idem

(6) If a worker is medically unable to undergo an assessment when contacted by the Board under subsection (5), the Board shall make the offer of assessment within a reasonable time after the worker becomes medically able to undergo assessment.

Assessment

(7) The Board shall provide a vocational rehabilitation assessment to a worker who accepts an offer and the assessment may include an evaluation of the worker's functional abilities, vocational skills, aptitude, educational attainment, literacy and language skills.

(8) The Board shall give written notice to the worker and the employer forthwith of the results of a vocational rehabilitation assessment conducted under subsection (7) and shall send the worker a copy of the assessment.

Results of
assessment

(9) The Board, after consultation with the worker and having regard to the results of an assessment under subsection (7), shall determine within thirty days after the Board receives the assessment results whether the worker needs a vocational rehabilitation program and shall give written notice to the worker and the employer of its determination.

Determi-
nation re:
vocational
rehabilitation
program

(10) If the Board determines, as a result of an assessment or otherwise, that a worker requires a vocational rehabilitation program, the Board in consultation with the worker and, if possible, with the employer and the worker's physician shall design and provide one.

Vocational
rehabilitation

(11) A vocational rehabilitation program may include vocational training, language training, general skills upgrading, refresher courses, employment counselling (including training in job search skills and in the identification of employment opportunities), assistance in seeking employment and assistance in adapting the workplace of an employer to accommodate the worker.

Particulars of
program

(12) If a worker's vocational rehabilitation program includes assistance in seeking employment, the Board shall assist the worker to search for employment for a period of up to six months after the worker is available for employment and the Board may extend its assistance for a further period of up to six months.

Entitlement
to job search
assistance

OBLIGATION TO RE-EMPLOY

54b.—(1) The employer of a worker who as a result of an injury has been unable to work and who, on the date of the injury, had been employed continuously for at least one year by the employer shall offer to re-employ the worker in accordance with this section.

Obligation to
re-employ

(2) The Board shall determine,

Determi-
nation re
return to
work

- (a) with respect to an injured worker who has not returned to work with the pre-injury employer, whether the worker is medically able to perform the essential duties of the worker's pre-injury employment or is medically able to perform suitable work; and

- (b) with respect to an injured worker who the Board has previously determined to be medically able to perform suitable work, whether the worker is medically able to perform the essential duties of the worker's pre-injury employment.

Board to
notify
employer

(3) The Board shall notify the employer upon determining that the worker is able to perform the essential duties of the worker's pre-injury employment or is medically able to perform suitable work.

Obligation to
re-employ

(4) Upon receiving notice from the Board that a worker is able to perform the essential duties of the worker's pre-injury employment, the employer shall offer to reinstate the worker in the position the worker held on the date of injury or offer to provide the worker with alternative employment of a nature and at earnings comparable to the worker's employment on that date.

Idem

(5) Upon receiving notice from the Board that a worker, although unable to perform the essential duties of the worker's pre-injury employment, is medically able to perform suitable work, the employer shall offer the worker the first opportunity to accept suitable employment that may become available with the employer.

Impaired
worker

(6) In order to fulfil the employer's obligations under this section, the employer shall accommodate the work or the workplace to the needs of a worker who is impaired as a result of the injury to the extent that the accommodation does not cause the employer undue hardship.

Notification
of Board

(7) An employer shall give written notice to the Board of the particulars of the way in which the employer intends to accommodate the work or the workplace to the needs of a worker under subsection (6).

Duration of
obligation

(8) An employer is obligated under this section until the day that is the earliest of,

- (a) two years after the date of the injury to the worker;
- (b) one year after the date the Board notifies the employer that the worker is medically able to perform the essential duties of the worker's pre-injury employment; and
- (c) the date the worker reaches sixty-five years of age.

(9) Employers engaged primarily in construction shall comply with such requirements to re-employ workers who perform construction work as may be prescribed in the regulations and subsections (4) to (8) do not apply in respect of such employers in relation to such workers.

Construction
industry
requirements

(10) An employer who, having re-employed a worker in accordance with this section, terminates the employment within six months, is presumed, unless the contrary is shown, not to have fulfilled the employer's obligations under this section.

Termination
of re-
employment

(11) A worker may apply to the Board for a determination whether the employer has fulfilled the employer's obligations to the worker under this section and the Board shall make the determination.

Determi-
nation re:
employer
compliance

(12) The Board is not required to consider an application under subsection (11) by a worker who has been re-employed and whose employment is terminated within six months if it is made more than three months after the date of termination of employment.

Limitation
period

(13) If the Board finds that an employer has not fulfilled the employer's obligations under this section, the Board may,

Consequences
of non-
compliance

- (a) levy a penalty on the employer of a maximum of the amount of the worker's net average earnings for the year preceding the injury; and
- (b) make payments to the worker for a maximum of one year as if the worker were entitled to compensation under section 40, and subsections 40 (2) and (3) apply to the payments with such modifications as the circumstances may require.

(14) If this section conflicts with a collective agreement that is binding upon the employer and if the obligations of the employer under this section in respect of a worker afford the worker greater re-employment terms in the circumstances than the terms available to the worker under the collective agreement, this section prevails over the collective agreement.

Conflict with
collective
agreement

(15) Subsection (14) does not operate to displace the seniority provisions of a collective agreement.

Idem

(16) This section does not apply in respect of,

Application


- (a) employers who regularly employ fewer than twenty workers; or

- (b) such classes or subclasses of employers and workers as may be exempted by the regulations.

Emergency
workers

(17) If a worker is injured while engaged in employment described in subsection 1 (2) or (4), the worker's employer, other than the employer described in subsection 1 (2) or (4), shall be deemed to be the employer for the purposes of this section.

Idem

(18) If an employer re-employs a worker to whom subsection (17) applies, the employer described in subsection 1 (2) or (4) shall pay the costs incurred in complying with subsection (6). 

20. Section 69 of the said Act is amended by adding thereto the following subsections:


Idem

(1a) Without restricting the generality of subsection (1), the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing, for the purposes of subsections 36 (13) and 40 (3), clause 45a (7) (b) and subsection 135 (9), the way in which payments received under the Canada Pension Plan and the Quebec Pension Plan are to be included in the calculation of compensation, of the amount that a worker is able to earn or of the sum of a supplement and an award, as the case may be;
- (b) establishing criteria for determining the average earnings of an apprentice, learner or full-time or part-time student for the purposes of subsection 43 (6);
- (c) establishing, for the purposes of medical assessments under section 45, a rating schedule setting out the degree of permanent impairment for specified types of permanent impairment and setting out criteria for assessing the degree of permanent impairment of other types of permanent impairment;
- (d) establishing criteria for assessing the personal and vocational characteristics of a worker, for the purposes of clause 45a (7) (c);
- (e) establishing criteria for determining what constitutes suitable and available employment for a worker, for the purposes of clause 45a (7) (e);

- (f) prescribing factors to be considered by the Board for the purposes of clause 45a (7) (f);
- (g) governing pensions payable to workers, their spouses and their dependants under section 45b;
- (h) governing the investment of amounts in, and payments out of, the fund established under subsection 45b (10);
- (i) exempting classes or subclasses of employers or workers from the application of section 54b;
- ➡ (j) establishing criteria for determining the essential duties of a position, for the purpose of subsection 54b (2);
- (k) establishing criteria for determining what constitutes alternative employment of a nature and at earnings comparable to a worker's pre-injury employment, for the purpose of subsection 54b (4);
- (l) establishing criteria for determining what constitutes suitable employment, for the purpose of subsection 54b (5);
- (m) governing the requirements for re-employing workers, for the purpose of subsection 54b (9);
- (n) establishing criteria for determining how many workers are regularly employed by an employer, for the purpose of clause 54b (16) (a).

(1b) For the purposes of clause (1a) (e), in establishing ^{Idem} criteria for determining what constitutes suitable and available employment for a worker, the Board shall have regard to,

- (a) the fitness of the worker to perform the work;
 - (b) the health and safety consequences to the worker in working in the environment in which the work is performed in light of the impairment;
 - (c) the existence and location of potential employment opportunities for the worker in the labour market in which the worker is expected to be employed; and
 - (d) the likelihood of the worker securing employment.
- 

21.—(1) Clause 71 (3) (h) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after “disabled” in the fifth line “or impaired”.

(2) Clause 71 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after “disabled” in the fifth line “or impaired”.

22.—(1) Clause 75 (2) (d) of the said Act is amended by inserting after “disability” in the first line “or impairment”.

(2) Clause 75 (2) (e) of the said Act is amended by striking out “disability” in the first line and inserting in lieu thereof “impairment”.

(3) Clause 75 (2) (g) of the said Act is repealed and the following substituted therefor:

(g) the future loss of earnings by reason of any injury.

(4) Subsection 75 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding thereto the following clause:

(n) whether an employer has fulfilled the employer's obligation under section 54b to reinstate or re-employ a worker.

23. Section 86p of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

Application
of subss.
83 (3, 4)

(6a) Subsections 83 (3) and (4) apply with necessary modifications to the chairman, vice-chairman and other members of the Panel and to the officers and employees of the Panel.

24. Section 86q of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

Application
of s. 83

(4) Section 83 applies with necessary modifications to the officers and employees of the Office of the Worker Adviser.

25. Section 86r of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

Application
of s. 83

(3) Section 83 applies with necessary modifications to the officers and employees of the Office of the Employer Adviser.

26.—(1) Subsection 122 (1) of the said Act is amended by striking out “disabled” in the second line and inserting in lieu thereof “impaired” and by striking out “disablement” in the seventh line and inserting in lieu thereof “impairment”.

(2) Subsection 122 (11) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 4, is further amended by striking out “disability” in the third line and inserting in lieu thereof “impairment” and by striking out “disablement” in the last line and inserting in lieu thereof “impairment”.

27. Section 123 of the said Act is amended by adding thereto the following subsection:

↓
(3a) Subsections 83 (3) and (4) apply with necessary modifications to directors, officers and employees of an association and to volunteers engaging in activities on behalf of an association. ↗

Application
of subss.
83 (3, 4)

28. Part III of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37 and amended by 1985, chapter 3, sections 5, 6, 7, 8 and 9, is repealed and the following substituted therefor:

PART III

TRANSITIONAL PROVISIONS

132. In this Part,

Definitions

“pre-1985 Act” means this Act as it read on the 31st day of March, 1985, as amended by the Statutes of Ontario, 1984, chapter 58, section 37 and 1985, chapter 3, sections 6, 7, 8 and 9;

“pre-1985 injury” means,

- (a) a personal injury by accident or an industrial disease that occurred before the 1st day of April, 1985, or
- (b) death that occurred before the 1st day of April, 1985, resulting from an injury by accident or an industrial disease;

“pre-1989 Act” means this Act as it read immediately before the coming into force of this definition, excluding Part III thereof;

"pre-1989 injury" means a personal injury by accident or an industrial disease that occurred on or after the 1st day of April, 1985 and before the coming into force of section 45a of this Act.

Pre-1985 Act
continues to
apply

133.—(1) Except as provided in this section, the pre-1985 Act continues to apply to pre-1985 injuries.

Exception

(2) Subsections 43 (5), (5a), (5b) and (5c) of the pre-1985 Act cease to apply to pre-1985 injuries on the day this section comes into force.

Pre-1988 Act
continues to
apply

134.—(1) Except as provided in this section, the pre-1989 Act continues to apply to pre-1989 injuries.

Exception

(2) Subsections 45 (6), (7), (8) and (9) of the pre-1989 Act cease to apply to pre-1989 injuries on the day this section comes into force.

PERMANENT PARTIAL DISABILITY SUPPLEMENTS

Partial
disability
supplements

135.—(1) In this section,

"amount awarded for permanent partial disability" means the amount awarded for permanent partial disability under,

- (a) subsection 43 (1) of the pre-1985 Act, with respect to a pre-1985 injury, and
- (b) subsection 45 (1) of the pre-1989 Act, with respect to a pre-1989 injury;

"worker" means a worker who is permanently disabled as a result of a pre-1985 injury or a pre-1989 injury;

Temporary
supplement

(2) Subject to subsections (9) and (10), the Board shall give a supplement to a worker who, in the opinion of the Board, is likely to benefit from a vocational rehabilitation program which could help to increase the worker's earning capacity to such an extent that the sum of the worker's earning capacity after vocational rehabilitation and the amount awarded for permanent partial disability approximates the worker's average or net average earnings, as the case may be, before the worker's injury.

Idem

(3) A supplement under subsection (2) is payable for the period during which the worker participates in a Board-approved vocational rehabilitation program.

(4) Subject to subsections (8), (9) and (10), the Board shall give a supplement to a worker, Permanent supplement

- (a) who, in the opinion of the Board, is not likely to benefit from a vocational rehabilitation program in the manner described in subsection (2); or
- (b) whose earning capacity after a vocational rehabilitation program is not increased to the extent described in subsection (2) in the opinion of the Board.

(5) A supplement under subsection (4) for a worker described in clause (4) (a) becomes payable as of the later of, Duration of supplement

- (a) the day this section comes into force; or
- (b) the day the Board determines the worker has a permanent disability.

(6) A supplement under subsection (4) for a worker described in clause (4) (b) becomes payable as of the latest of, Idem

- (a) the day this section comes into force;
- (b) the day the Board determines the worker has a permanent disability; or
- (c) the day the worker ceases to participate in a vocational rehabilitation program.

(7) A supplement under subsection (4) shall continue until the worker becomes eligible for old age security benefits. Idem

(8) The amount of a supplement under subsection (4) shall not exceed the amount of a full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto. Amount of supplement
R.S.C. 1985,
c. O-9

(9) The amount of a supplement under this section for a worker with a pre-1985 injury shall be calculated so that the sum of the supplement, the amount awarded for permanent partial disability and 75 per cent of the worker's average earnings, if any, after the injury equals 75 per cent of the worker's pre-injury average earnings. Idem

(10) The amount of a supplement under this section for a worker with a pre-1989 injury shall be calculated so that the sum of the supplement, the amount awarded for permanent partial disability and 90 per cent of the worker's net average Idem

earnings, if any, after the injury equals 90 per cent of the worker's pre-injury net average earnings.


C.P.P. and
Q.P.P.
payments


(11) In calculating the amount of a supplement under this section, the Board shall have regard to the effect of inflation on the worker's pre-injury earning rate and to any payments the worker receives under the Canada Pension Plan or the Quebec Pension Plan with respect to a disability arising from the injury.


Form of
payment

(12) A supplement under this section shall be a monthly or other periodic payment.

Recalculation

(13) The Board shall review a supplement given under subsection (4) in the twenty-fourth month following the award and in the sixtieth month following the award and recalculate the amount of the supplement in accordance with subsections (9) and (10). 

 **29.—**(1) Subsection 141 (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 17, section 5, is amended by striking out “(3)” in the second line.

(2) Subsection 141 (2) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 17, section 5, is amended by striking out “or under subsection 133 (3), (4), (5) or 43 (9) as continued by section 132” in the second and third lines. 

Commence-
ment

30.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 27 and section 29 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. The short title of this Act is the *Workers' Compensation Amendment Act, 1989*.

Bill 162

(Chapter 47
Statutes of Ontario, 1989)

An Act to amend the Workers' Compensation Act

The Hon. G. Sorbara
Minister of Labour

<i>1st Reading</i>	June 20th, 1988
<i>2nd Reading</i>	November 23rd, 1988
<i>3rd Reading</i>	July 24th, 1989
<i>Royal Assent</i>	July 26th, 1989

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

Bill 162

1989

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (ea) "contributions for employment benefits", in relation to a worker, means amounts paid in whole or in part by an employer on behalf of the worker or the worker's spouse or dependants for health care, life insurance and pension benefits;

.

- (g) "disability", in relation to an injured worker, means the loss of earning capacity of the worker that results from an injury.

(2) Clause 1 (1) (i) of the said Act is amended by adding at the end thereof "but does not include contributions made under section 5a for employment benefits".

(3) The said subsection 1 (1) is further amended by adding thereto the following clauses:

- (la) "impairment", in relation to an injured worker, means any physical or functional abnormality or loss including disfigurement which results from an injury and any psychological damage arising from the abnormality or loss;

.

- (va) "permanent impairment", in relation to an injured worker, means impairment that continues to exist

after maximum medical rehabilitation of the worker has been achieved;

(xb) "student" means a person who is pursuing formal education as a full-time or part-time student and is employed by an employer for the purposes of the employer's industry, although not as a learner or an apprentice.

(4) Subclause 1 (1) (z) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 1, is amended by inserting at the end thereof "or student".

2. Subsection 3 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 3, is amended by striking out "disability" in the last line and inserting in lieu thereof "impairment".

3. The said Act is amended by adding thereto the following section:

Employment
benefits for
injured
workers

5a.—(1) An employer, throughout the first year after an injury to a worker, shall make contributions for employment benefits in respect of the worker when the worker is absent from work because of the injury.

Deeming
provision

(2) For the purpose of determining a worker's entitlement to benefits under a benefit plan, fund or arrangement, a worker shall be deemed, for one year after the date the injury occurred, to continue to be employed by the worker's employer on the date of the injury.

Penalty

(3) If the Board finds that an employer has not complied with its obligations under subsection (1), the Board may levy a penalty on the employer to a maximum of the amount of one year's contributions for employment benefits in respect of the worker.

Liability for
loss

(4) The employer is liable to a worker for any loss the worker suffers as a result of the employer's failure to make the contributions required by subsection (1).

Eligibility

(5) Contributions under subsection (1) are required only if,

(a) the employer was making contributions for employment benefits in respect of the worker when the injury occurred; and

- (b) the worker continues to pay his or her contributions, if any, for the employment benefits while absent from work.

(6) If a worker is injured while engaged in employment described in subsection 1 (2) or (4), the worker's employer, other than the employer described in subsection 1 (2) or (4), shall be deemed to be the employer for the purposes of this section. Emergency workers

(7) If an employer makes contributions under subsection (1) in respect of a worker described in subsection (6), the employer described in subsection 1 (2) or (4) shall reimburse the employer for the contributions. Idem

(8) Subsection (1) does not apply to an employer who participates in a multi-employer benefit plan in respect of a worker if, throughout the first year after the worker is injured whenever the worker is absent from work because of the injury, Multi-employer benefit plans

- (a) the plan continues to provide the worker with the benefits to which the worker would otherwise be or become entitled under the plan; and

- (b) the plan does not require contributions from the employer during the absence and does not require the worker to draw on the worker's benefit credits, if any, under the plan during the absence.

(9) A multi-employer benefit plan shall contain and, if it does not do so, shall be deemed to contain provisions sufficient, Amendment of multi-employer benefit plans

- (a) to enable all employers who participate in the plan to be exempted under subsection (8) from the requirement to make contributions; and

- (b) to provide each worker with the benefits described in subsection (8) in the circumstances described in that subsection.

(10) Subsection (9) shall come into force two years after the date on which this section comes into force. Commencement

4. Section 13 of the said Act is amended by striking out "disability" wherever it occurs and inserting in lieu thereof in each instance "impairment".

5. Section 23 of the said Act is amended by striking out "permanent disability" in the sixth line and inserting in lieu thereof "compensation".

6. Section 24 of the said Act is amended by inserting after "payment" in the first line "under section 40" and by striking out "hereinafter prescribed" in the last line and inserting in lieu thereof "amount payable under that section".

7. Section 27 of the said Act is repealed.

8. Section 28 of the said Act is repealed.

9. Subsection 32 (1) of the said Act is amended by striking out "disability" in the second line and inserting in lieu thereof "impairment".

10.—(1) Section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 9 and amended by 1985, chapter 3, section 1, is further amended by adding thereto the following subsections:

Vocational
rehabilitation

(1a) The spouse of a deceased worker may apply to the Board within one year after the worker's death for a vocational rehabilitation assessment, and after an assessment the Board shall provide a vocational rehabilitation program to the spouse if the Board considers it appropriate to do so.

Idem

(1b) Subsections 54a (11) and (12) apply with respect to a vocational rehabilitation program provided to a spouse.

(2) Subsection 36 (13) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 9, is repealed and the following substituted therefor:

Deductions
for C.P.P.
and Q.P.P.
payments

(13) In calculating the compensation payable by way of periodic payments under this section, the Board shall have regard to any payments of survivor benefits for death caused by injury that are received under the Canada Pension Plan or the Quebec Pension Plan in respect of the deceased worker.

(3) Subsection 36 (16) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 3, section 1, is amended by striking out "\$31,500 per annum" in the last line and inserting in lieu thereof "the maximum amount determined under section 41".

11.—(1) Subsection 40 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is

amended by adding at the end thereof "or until the worker begins receiving payments under section 45a".

(2) Subsection 40 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any disability payments the worker receives under the Canada Pension Plan and the Quebec Pension Plan with respect to the injury and, if subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of disability resulting from the injury as determined by the Board.

Deductions
for C.P.P.
and Q.P.P.
payments

12. Section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

41.—(1) For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated,

Maximum
earnings

- (a) effective on the day this subsection comes into force, is the maximum amount of average earnings determined under this section as it read immediately before this subsection came into force;
- (b) effective on the 1st day of January of the year following the year in which this section comes into force, is \$42,000; and
- (c) effective on the 1st day of January of each year after the effective date for the amount in clause (b), is 175 per cent of the average industrial wage for Ontario for the year, determined in accordance with subsection (3).

(2) Part IV of this Act does not apply to the maximum amount of average earnings determined under subsection (1).

Application
of
Part IV

(3) For the purposes of clause (1) (c), the average industrial wage for Ontario is an amount applicable from the 1st day of January to the 31st day of December in a year, the calculation of which is based upon the most recent published material that is available on the 1st day of July of the preceding year, and the amount of which is based upon the estimated weekly earnings industrial aggregate for Ontario as published by Statistics Canada.

Determi-
nation of the
average
industrial
wage

13.—(1) Subsection 42 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is amended by striking out “impairment of earning capacity” in the last line and inserting in lieu thereof “degree of disability”.

(2) Subsection 42 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 2, is repealed.

14. Subsection 43 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11, is repealed and the following substituted therefor:

Apprentices,
learners and
students

(6) Notwithstanding subsection (1), if a worker was an apprentice, learner or student at the time of the accident, the Board shall determine the worker's average earnings using such criteria as may be prescribed by regulation.

15. Section 45 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 11 and amended by the Statutes of Ontario, 1985, chapter 3, section 3, is repealed and the following substituted therefor:

Non-
economic loss
where
permanent
impairment

45.—(1) A worker who suffers permanent impairment as a result of an injury is entitled to receive compensation for non-economic loss in addition to any other benefit receivable under this Act.

Compen-
sation for
non-economic
loss

(2) The compensation for a worker's non-economic loss from an injury is determined by multiplying,

(a) the percentage of the worker's permanent impairment arising from the injury as determined by the Board; and

(b) \$45,000,

(i) plus \$1,000 for each year of age of the worker under forty-five years at the time of the injury, to a maximum of \$20,000, or

(ii) minus \$1,000 for each year of age of the worker over forty-five years at the time of the injury, to a maximum of \$20,000.

Payment

(3) If the compensation for non-economic loss is greater than \$10,000, it shall be paid as a monthly payment for the life of the worker unless the worker elects to receive the compensation as a lump sum.

(4) If the compensation for non-economic loss is less than or equal to \$10,000, it shall be paid as a lump sum. Idem

(5) The Board shall determine in accordance with the prescribed rating schedule and having regard to medical assessments conducted under this section the degree of a worker's permanent impairment expressed as a percentage of total permanent impairment. Determination by Board

(6) A medical practitioner who conducts a medical assessment under this section shall, Medical assessment

(a) examine the worker; and

(b) assess the extent of the worker's permanent impairment, having regard to the existing and anticipated likely future consequences of the injury.

(7) In conducting a medical assessment, the medical practitioner shall consider any report by the treating physician of an injured worker. Idem

(8) A medical practitioner shall promptly forward a copy of a medical assessment to the Board. Idem

(9) After maximum medical rehabilitation of an injured worker is achieved, a medical assessment of the worker shall be conducted. Requirement for medical assessment

(10) The worker may select a medical practitioner from a roster provided by the Board who shall conduct the worker's medical assessment. Selection of medical practitioner

(11) If a worker does not make a selection under subsection (10) within thirty days after the Board provides the worker with a roster of medical practitioners, a medical practitioner appointed by the Board shall conduct the medical assessment. Idem

(12) The Board shall send a copy of a medical assessment conducted under subsection (9) to the worker and to the employer who employed the worker on the date of the injury. Notification of worker and employer

(13) A worker, an employer or the Board may, within forty-five days after the medical assessment is sent under subsection (12), require a second medical assessment of the worker. Request for second assessment

(14) A worker or an employer who requires a second medical assessment shall give notice thereof to the Board within the forty-five day period referred to in subsection (13). Notice

Selection of
medical
practitioner

(15) If a second medical assessment is required, the Board shall provide the worker and the employer with a list of at least three medical practitioners selected from a roster, from among whom the worker and the employer, by agreement and within thirty days after receiving the list, may select a medical practitioner who shall conduct the medical assessment.

Idem

(16) If the worker and the employer fail to agree upon a medical practitioner to conduct the second medical assessment, the Board shall select a medical practitioner from a roster and, if possible, one who was not named on the list provided to the worker and the employer, and the medical practitioner selected shall conduct the medical assessment.

Idem

(17) If the Board considers it to be impractical to provide a list of medical practitioners under subsection (15) because of the nature of a worker's impairment, the Board shall appoint such medical practitioner to conduct the second medical assessment as the Board considers appropriate.

Notification
of worker
and employer

(18) The Board shall send a copy of the second medical assessment to the worker and the employer.

Board
determination

(19) The Board shall forthwith determine the degree of a worker's permanent impairment,

(a) after the expiry of the forty-five day period referred to in subsection (14) if a second medical assessment was not required; or

(b) after it receives a copy of a second medical assessment if one was required.

Notice

(20) The Board shall give notice of its decision to the worker and the employer forthwith after determining the degree of a worker's permanent impairment.

Unanti-
cipated
deterioration

(21) A worker may apply to the Board for a redetermination of the degree of the worker's permanent impairment,

(a) if the Board has determined that the worker has a permanent impairment; and

(b) if the worker has suffered a significant deterioration of condition that was not anticipated at the time of the most recent medical assessment under this section.

(22) Subsections (5) to (20) apply to a redetermination as though it were an initial determination by the Board, with such modifications as the circumstances require.

Redetermination

(23) No worker may apply under subsection (21) until twelve months have elapsed from the most recent decision by the Board respecting the degree of permanent impairment of the worker.

Time for applying

(24) The Lieutenant Governor in Council, on the recommendation of the Board, may establish one or more rosters of medical practitioners who are qualified to conduct medical assessments under this section.

Roster of medical practitioners

(25) A medical practitioner who conducts an assessment under this section shall be paid such sum for services and expenses as the chairman of the Board may determine.

Remuneration of medical practitioners

(26) Subsections 83 (3) and (4) apply with necessary modifications to all medical practitioners who conduct medical assessments under this section.

Application of subss. 83 (3, 4)

45a.—(1) A worker who suffers injury resulting in permanent impairment or resulting in temporary disability for twelve continuous months is entitled to compensation for future loss of earnings arising from the injury.

Compensation for future loss of earnings

(2) An injured worker ceases to be eligible for compensation for future loss of earnings when the worker reaches sixty-five years of age.

Duration of compensation

(3) Subject to subsection (8), the amount of compensation payable to a worker for future loss of earnings arising from an injury is equal to 90 per cent of the difference between,

Amount of compensation

(a) the worker's net average earnings before the injury; and

(b) the net average earnings that the worker is likely to be able to earn after the injury in suitable and available employment.

(4) Notwithstanding clause 139 (2) (b), the amount of compensation payable under this section to a worker for future loss of earnings arising from an injury shall be adjusted in accordance with subsections (5) and (6).

Adjustment of amounts

(5) The amount of compensation calculated by the Board under subsection (3), (8) or (13) shall be adjusted in accordance with clause 139 (2) (b).

Idem

Idem

(6) The amount of compensation payable under this section in each year after the year in which the initial calculation is made by the Board shall be adjusted by applying the indexing factor to the amount of the previous year's compensation as adjusted under Part IV.

Earnings
from suitable
and available
employment

(7) For the purposes of subsection (3), in determining the amount that a worker is likely to be able to earn in suitable and available employment, the Board shall have regard to,

- (a) the net average earnings, if any, of the worker at the time the Board determines compensation under this section;
- (b) any disability payments the worker may receive for the injury under the Canada Pension Plan or the Quebec Pension Plan;
- (c) the personal and vocational characteristics of the worker;
- (d) the prospects for successful medical and vocational rehabilitation of the worker;
- (e) what constitutes suitable and available employment for the worker; and
- (f) such other factors as may be prescribed in the regulations.

Election re:
older workers

R.S.C. 1985,
c. O-9

(8) A worker may elect to receive an amount equal to a full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto, instead of the amount of compensation determined under subsection (3) or (13) if the worker,

- (a) is at least fifty-five years of age when the Board determines or reviews the amount of the worker's compensation;
- (b) has not returned to work; and
- (c) is unlikely, in the opinion of the Board, to benefit from a vocational rehabilitation program which could help the worker return to work.

Supplement
to compen-
sation

(9) If a worker who is receiving compensation under this section is co-operating in a Board-authorized vocational or medical rehabilitation program,

- (a) that began before the date of the Board's review under clause (13) (a); or
- (b) that began within twelve months after a determination is made under subsection 45 (21) of an unanticipated deterioration in the worker's condition,

the amount of compensation otherwise determined under this section shall be supplemented so that the total compensation payable to the worker while the worker is co-operating in the rehabilitation program is equal to 90 per cent of the worker's pre-injury net average earnings.

(10) Where possible, the Board shall determine the amount of compensation payable to a worker under this section, Determination of compensation

- (a) in the twelfth consecutive month during which the worker is temporarily disabled;
- (b) within one year after notice of the accident in which the worker was injured is given under section 20, if during that year the Board determines that the worker is permanently impaired; or
- (c) within eighteen months after notice of the accident in which the worker was injured is given under section 20, if the worker's medical condition precludes a determination within the time stated in clause (a) or (b), whichever applies.

(11) Clauses (10) (b) and (c) do not apply with respect to a worker who is permanently impaired by industrial disease. Idem

(12) The Board may extend the time limits set out in subsection (10) in the case of a worker who is not receiving compensation under this Act and whose entitlement to compensation is in dispute. Idem

(13) Where possible, the Board shall review its determination of the amount of compensation payable to a worker under this section, Review of amount of compensation

- (a) in the twenty-fourth month after the date of its initial determination;
- (b) in the sixtieth month after the date of its initial determination; and
- (c) within twenty-four months after a reconsideration of the percentage of permanent impairment of a work-

er, under subsection 45 (21), results in a determination of increased permanent impairment of the worker,

but the Board shall not vary the amount of compensation payable as a result of a review unless the amount of the variation would be equal to at least 10 per cent of the amount of compensation being paid at the time of the review.

Payment of
compensation

(14) Compensation for future loss of earnings is payable in monthly or other periodic payments except as provided in subsection (15).

Commutation
of amount
payable

(15) If, following the review under clause (13) (b) or (c), the amount of compensation determined to be payable to a worker under this section is 10 per cent or less of the amount of compensation payable for full loss of earnings, the Board may commute the periodic amount payable to the worker to a lump sum unless the worker elects to receive the compensation in periodic payments.

Benefits for
loss of
retirement
income

45b.—(1) For the purpose of providing a worker who is receiving compensation under section 45a with a retirement pension, the Board shall set aside for the worker additional funds equal to 10 per cent of every payment made to the worker under section 45a.

Payments
deemed to
be made to
worker

(2) Payments to the spouse or dependants of a worker made by the Board under section 50 out of funds otherwise payable to the worker under section 45a shall be deemed to be payments to the worker for the purposes of subsection (1).

Entitlement
to retirement
income

(3) Each worker on whose behalf the Board sets aside funds under subsection (1), upon reaching sixty-five years of age, shall receive a retirement pension under this section.

Survivor
benefits

(4) If a worker dies before beginning to receive or while receiving a retirement pension under this section, the spouse and dependants of the worker shall receive such benefits as may be prescribed by regulation.

Exception

(5) Notwithstanding subsection (4), a spouse and dependants who receive compensation under section 36 in respect of a worker are not entitled to receive benefits under this section in respect of the worker.

Payment of
retirement
income

(6) A worker for whom funds are being set aside under subsection (1) may select the payment scheme for the worker's retirement pension from among the schemes and subject to the restrictions prescribed in the regulations.

(7) Notwithstanding subsection (6), if the annual pension to which a worker becomes entitled upon reaching sixty-five years of age is less than \$1,000, the Board shall pay the worker's retirement pension under this section as a lump sum. Idem

(8) Retirement pensions and other benefits payable to or in respect of a worker under this section shall be calculated on the basis of the funds set aside for the worker plus the accumulated investment income thereon. Calculation of pensions and benefits

(9) An employer that is individually liable to pay compensation under this Act shall pay the funds set aside under subsection (1) to the Board. Employer payment

(10) The Board shall establish a fund into which funds set aside under subsection (1) shall be deposited and shall invest the fund in accordance with such procedures and restrictions as may be set out in the regulations. Fund to be established

16. Subsection 50 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 13, is repealed and the following substituted therefor:

(1) Where a worker is entitled to compensation under this Act and the worker's spouse is entitled or the worker's dependants are entitled to support or maintenance under a court order, the Board shall divert such portion of the compensation payable to the worker in each periodic payment as is permitted under subsection (1a), Garnishment for family support

(a) in accordance with a garnishment notice issued by a court in Ontario; and

(b) to the extent of default or arrears accruing after the 1st day of April, 1985, under the court order.

(1a) Garnishment of compensation under subsection (1) is subject to the limits and procedures set out in subsections 7 (1) to (5) of the *Wages Act* and compensation payable under this Act, other than funds set aside under subsection 45b (1), shall be deemed to be wages for the purposes of that Act. R.S.O. 1980, c. 526 applies

17.—(1) Clause 52 (1) (c) of the said Act is amended by striking out “disability” in the second line and inserting in lieu thereof “impairment”.

(2) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 3, section 4, is amended by striking out “disability” in the fifth line and inserting in lieu thereof “impairment”.

18. Section 53 of the said Act is amended by striking out “without additional charge” in the fourth line.

19. The said Act is further amended by adding thereto the following sections:

Vocational
rehabilitation

54a.—(1) This section applies in respect of a worker who is receiving or has received benefits under section 40.

Early
assessment

(2) Within forty-five days after notice of an accident under section 20 is filed, the Board shall contact a worker who has not returned to work, for the purpose of identifying the worker's need for vocational rehabilitation services.

Vocational
rehabilitation
services

(3) The Board shall provide a worker contacted under subsection (2) with vocational rehabilitation services if the Board considers it appropriate to do so.

Idem

(4) Vocational rehabilitation services provided under subsection (3) may include consultation, the provision of information and the planning and design of a vocational rehabilitation program.

Second
contact re:
assessment

(5) The Board shall offer a vocational rehabilitation assessment to every worker,

- (a) who has not returned to the worker's pre-injury employment or to alternative employment of a nature and at earnings comparable to the pre-injury employment within six months after notice of the accident under section 20 is filed;
- (b) who is not receiving vocational rehabilitation services; and
- (c) who is not receiving or has not received a vocational rehabilitation program.

Idem

(6) If a worker is medically unable to undergo an assessment when contacted by the Board under subsection (5), the Board shall make the offer of assessment within a reasonable time after the worker becomes medically able to undergo assessment.

Assessment

(7) The Board shall provide a vocational rehabilitation assessment to a worker who accepts an offer and the assessment may include an evaluation of the worker's functional abilities, vocational skills, aptitude, educational attainment, literacy and language skills.

(8) The Board shall give written notice to the worker and the employer forthwith of the results of a vocational rehabilitation assessment conducted under subsection (7) and shall send the worker a copy of the assessment.

Results of
assessment

(9) The Board, after consultation with the worker and having regard to the results of an assessment under subsection (7), shall determine within thirty days after the Board receives the assessment results whether the worker needs a vocational rehabilitation program and shall give written notice to the worker and the employer of its determination.

Determi-
nation re:
vocational
rehabilitation
program

(10) If the Board determines, as a result of an assessment or otherwise, that a worker requires a vocational rehabilitation program, the Board in consultation with the worker and, if possible, with the employer and the worker's physician shall design and provide one.

Vocational
rehabilitation

(11) A vocational rehabilitation program may include vocational training, language training, general skills upgrading, refresher courses, employment counselling (including training in job search skills and in the identification of employment opportunities), assistance in seeking employment and assistance in adapting the workplace of an employer to accommodate the worker.

Particulars of
program

(12) If a worker's vocational rehabilitation program includes assistance in seeking employment, the Board shall assist the worker to search for employment for a period of up to six months after the worker is available for employment and the Board may extend its assistance for a further period of up to six months.

Entitlement
to job search
assistance

OBLIGATION TO RE-EMPLOY

54b.—(1) The employer of a worker who as a result of an injury has been unable to work and who, on the date of the injury, had been employed continuously for at least one year by the employer shall offer to re-employ the worker in accordance with this section.

Obligation to
re-employ

(2) The Board shall determine,

Determi-
nation re
return to
work

- (a) with respect to an injured worker who has not returned to work with the pre-injury employer, whether the worker is medically able to perform the essential duties of the worker's pre-injury employment or is medically able to perform suitable work; and

- (b) with respect to an injured worker who the Board has previously determined to be medically able to perform suitable work, whether the worker is medically able to perform the essential duties of the worker's pre-injury employment.

Board to
notify
employer

(3) The Board shall notify the employer upon determining that the worker is able to perform the essential duties of the worker's pre-injury employment or is medically able to perform suitable work.

Obligation to
re-employ

(4) Upon receiving notice from the Board that a worker is able to perform the essential duties of the worker's pre-injury employment, the employer shall offer to reinstate the worker in the position the worker held on the date of injury or offer to provide the worker with alternative employment of a nature and at earnings comparable to the worker's employment on that date.

Idem

(5) Upon receiving notice from the Board that a worker, although unable to perform the essential duties of the worker's pre-injury employment, is medically able to perform suitable work, the employer shall offer the worker the first opportunity to accept suitable employment that may become available with the employer.

Impaired
worker

(6) In order to fulfil the employer's obligations under this section, the employer shall accommodate the work or the workplace to the needs of a worker who is impaired as a result of the injury to the extent that the accommodation does not cause the employer undue hardship.

Notification
of Board

(7) An employer shall give written notice to the Board of the particulars of the way in which the employer intends to accommodate the work or the workplace to the needs of a worker under subsection (6).

Duration of
obligation

(8) An employer is obligated under this section until the day that is the earliest of,

- (a) two years after the date of the injury to the worker;
- (b) one year after the date the Board notifies the employer that the worker is medically able to perform the essential duties of the worker's pre-injury employment; and
- (c) the date the worker reaches sixty-five years of age.

(9) Employers engaged primarily in construction shall comply with such requirements to re-employ workers who perform construction work as may be prescribed in the regulations and subsections (4) to (8) do not apply in respect of such employers in relation to such workers.

Construction
industry
requirements

(10) An employer who, having re-employed a worker in accordance with this section, terminates the employment within six months, is presumed, unless the contrary is shown, not to have fulfilled the employer's obligations under this section.

Termination
of re-
employment

(11) A worker may apply to the Board for a determination whether the employer has fulfilled the employer's obligations to the worker under this section and the Board shall make the determination.

Determi-
nation re:
employer
compliance

(12) The Board is not required to consider an application under subsection (11) by a worker who has been re-employed and whose employment is terminated within six months if it is made more than three months after the date of termination of employment.

Limitation
period

(13) If the Board finds that an employer has not fulfilled the employer's obligations under this section, the Board may,

Consequences
of non-
compliance

- (a) levy a penalty on the employer of a maximum of the amount of the worker's net average earnings for the year preceding the injury; and
- (b) make payments to the worker for a maximum of one year as if the worker were entitled to compensation under section 40, and subsections 40 (2) and (3) apply to the payments with such modifications as the circumstances may require.

(14) If this section conflicts with a collective agreement that is binding upon the employer and if the obligations of the employer under this section in respect of a worker afford the worker greater re-employment terms in the circumstances than the terms available to the worker under the collective agreement, this section prevails over the collective agreement.

Conflict with
collective
agreement

(15) Subsection (14) does not operate to displace the seniority provisions of a collective agreement.

Idem

(16) This section does not apply in respect of,

Application

- (a) employers who regularly employ fewer than twenty workers; or

- (b) such classes or subclasses of employers and workers as may be exempted by the regulations.

Emergency
workers

(17) If a worker is injured while engaged in employment described in subsection 1 (2) or (4), the worker's employer, other than the employer described in subsection 1 (2) or (4), shall be deemed to be the employer for the purposes of this section.

Idem

(18) If an employer re-employs a worker to whom subsection (17) applies, the employer described in subsection 1 (2) or (4) shall pay the costs incurred in complying with subsection (6).

20. Section 69 of the said Act is amended by adding thereto the following subsections:

Idem

(1a) Without restricting the generality of subsection (1), the Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing, for the purposes of subsections 36 (13) and 40 (3), clause 45a (7) (b) and subsection 135 (9), the way in which payments received under the Canada Pension Plan and the Quebec Pension Plan are to be included in the calculation of compensation, of the amount that a worker is able to earn or of the sum of a supplement and an award, as the case may be;
- (b) establishing criteria for determining the average earnings of an apprentice, learner or full-time or part-time student for the purposes of subsection 43 (6);
- (c) establishing, for the purposes of medical assessments under section 45, a rating schedule setting out the degree of permanent impairment for specified types of permanent impairment and setting out criteria for assessing the degree of permanent impairment of other types of permanent impairment;
- (d) establishing criteria for assessing the personal and vocational characteristics of a worker, for the purposes of clause 45a (7) (c);
- (e) establishing criteria for determining what constitutes suitable and available employment for a worker, for the purposes of clause 45a (7) (e);

- (f) prescribing factors to be considered by the Board for the purposes of clause 45a (7) (f);
- (g) governing pensions payable to workers, their spouses and their dependants under section 45b;
- (h) governing the investment of amounts in, and payments out of, the fund established under subsection 45b (10);
- (i) exempting classes or subclasses of employers or workers from the application of section 54b;
- (j) establishing criteria for determining the essential duties of a position, for the purpose of subsection 54b (2);
- (k) establishing criteria for determining what constitutes alternative employment of a nature and at earnings comparable to a worker's pre-injury employment, for the purpose of subsection 54b (4);
- (l) establishing criteria for determining what constitutes suitable employment, for the purpose of subsection 54b (5);
- (m) governing the requirements for re-employing workers, for the purpose of subsection 54b (9);
- (n) establishing criteria for determining how many workers are regularly employed by an employer, for the purpose of clause 54b (16) (a).

(1b) For the purposes of clause (1a) (e), in establishing ^{Idem} criteria for determining what constitutes suitable and available employment for a worker, the Board shall have regard to,

- (a) the fitness of the worker to perform the work;
- (b) the health and safety consequences to the worker in working in the environment in which the work is performed in light of the impairment;
- (c) the existence and location of potential employment opportunities for the worker in the labour market in which the worker is expected to be employed; and
- (d) the likelihood of the worker securing employment.

21.—(1) Clause 71 (3) (h) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after “disabled” in the fifth line “or impaired”.

(2) Clause 71 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 24, is amended by inserting after “disabled” in the fifth line “or impaired”.

22.—(1) Clause 75 (2) (d) of the said Act is amended by inserting after “disability” in the first line “or impairment”.

(2) Clause 75 (2) (e) of the said Act is amended by striking out “disability” in the first line and inserting in lieu thereof “impairment”.

(3) Clause 75 (2) (g) of the said Act is repealed and the following substituted therefor:

(g) the future loss of earnings by reason of any injury.

(4) Subsection 75 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding thereto the following clause:

(n) whether an employer has fulfilled the employer's obligation under section 54b to reinstate or re-employ a worker.

23. Section 86p of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

Application
of subss.
83 (3, 4)

(6a) Subsections 83 (3) and (4) apply with necessary modifications to the chairman, vice-chairman and other members of the Panel and to the officers and employees of the Panel.

24. Section 86q of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

Application
of s. 83

(4) Section 83 applies with necessary modifications to the officers and employees of the Office of the Worker Adviser.

25. Section 86r of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding thereto the following subsection:

Application
of s. 83

(3) Section 83 applies with necessary modifications to the officers and employees of the Office of the Employer Adviser.

26.—(1) Subsection 122 (1) of the said Act is amended by striking out “disabled” in the second line and inserting in lieu thereof “impaired” and by striking out “disablement” in the seventh line and inserting in lieu thereof “impairment”.

(2) Subsection 122 (11) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 4, is further amended by striking out “disability” in the third line and inserting in lieu thereof “impairment” and by striking out “disablement” in the last line and inserting in lieu thereof “impairment”.

27. Section 123 of the said Act is amended by adding thereto the following subsection:

(3a) Subsections 83 (3) and (4) apply with necessary modifications to directors, officers and employees of an association and to volunteers engaging in activities on behalf of an association.

Application
of subss.
83 (3, 4)

28. Part III of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 37 and amended by 1985, chapter 3, sections 5, 6, 7, 8 and 9, is repealed and the following substituted therefor:

PART III

TRANSITIONAL PROVISIONS

132. In this Part,

Definitions

“pre-1985 Act” means this Act as it read on the 31st day of March, 1985, as amended by the Statutes of Ontario, 1984, chapter 58, section 37 and 1985, chapter 3, sections 6, 7, 8 and 9;

“pre-1985 injury” means,

- (a) a personal injury by accident or an industrial disease that occurred before the 1st day of April, 1985, or
- (b) death that occurred before the 1st day of April, 1985, resulting from an injury by accident or an industrial disease;

“pre-1989 Act” means this Act as it read immediately before the coming into force of this definition, excluding Part III thereof;

“pre-1989 injury” means a personal injury by accident or an industrial disease that occurred on or after the 1st day of April, 1985 and before the coming into force of section 45a of this Act.

Pre-1985 Act
continues to
apply

133.—(1) Except as provided in this section, the pre-1985 Act continues to apply to pre-1985 injuries.

Exception

(2) Subsections 43 (5), (5a), (5b) and (5c) of the pre-1985 Act cease to apply to pre-1985 injuries on the day this section comes into force.

Pre-1989 Act
continues to
apply

134.—(1) Except as provided in this section, the pre-1989 Act continues to apply to pre-1989 injuries.

Exception

(2) Subsections 45 (5), (6), (7), (8) and (9) of the pre-1989 Act cease to apply to pre-1989 injuries on the day this section comes into force.

PERMANENT PARTIAL DISABILITY SUPPLEMENTS

Partial
disability
supplements

135.—(1) In this section,

“amount awarded for permanent partial disability” means the amount awarded for permanent partial disability under,

- (a) subsection 43 (1) of the pre-1985 Act, with respect to a pre-1985 injury, and
- (b) subsection 45 (1) of the pre-1989 Act, with respect to a pre-1989 injury;

“worker” means a worker who is permanently disabled as a result of a pre-1985 injury or a pre-1989 injury;

Temporary
supplement

(2) Subject to subsections (9) and (10), the Board shall give a supplement to a worker who, in the opinion of the Board, is likely to benefit from a vocational rehabilitation program which could help to increase the worker's earning capacity to such an extent that the sum of the worker's earning capacity after vocational rehabilitation and the amount awarded for permanent partial disability approximates the worker's average or net average earnings, as the case may be, before the worker's injury.

Idem

(3) A supplement under subsection (2) is payable for the period during which the worker participates in a Board-approved vocational rehabilitation program.

(4) Subject to subsections (8), (9) and (10), the Board shall give a supplement to a worker, Permanent supplement

- (a) who, in the opinion of the Board, is not likely to benefit from a vocational rehabilitation program in the manner described in subsection (2); or
- (b) whose earning capacity after a vocational rehabilitation program is not increased to the extent described in subsection (2) in the opinion of the Board.

(5) A supplement under subsection (4) for a worker described in clause (4) (a) becomes payable as of the later of, Duration of supplement

- (a) the day this section comes into force; or
- (b) the day the Board determines the worker has a permanent disability.

(6) A supplement under subsection (4) for a worker described in clause (4) (b) becomes payable as of the latest of, Idem

- (a) the day this section comes into force;
- (b) the day the Board determines the worker has a permanent disability; or
- (c) the day the worker ceases to participate in a vocational rehabilitation program.

(7) A supplement under subsection (4) shall continue until the worker becomes eligible for old age security benefits. Idem

(8) The amount of a supplement under subsection (4) shall not exceed the amount of a full monthly pension for old age security under section 3 of the *Old Age Security Act* (Canada), including amendments thereto. Amount of supplement
R.S.C. 1985,
c. O-9

(9) The amount of a supplement under this section for a worker with a pre-1985 injury shall be calculated so that the sum of the supplement, the amount awarded for permanent partial disability and 75 per cent of the worker's average earnings, if any, after the injury equals 75 per cent of the worker's pre-injury average earnings. Idem

(10) The amount of a supplement under this section for a worker with a pre-1989 injury shall be calculated so that the sum of the supplement, the amount awarded for permanent partial disability and 90 per cent of the worker's net average Idem

earnings, if any, after the injury equals 90 per cent of the worker's pre-injury net average earnings.

C.P.P. and
Q.P.P.
payments

(11) In calculating the amount of a supplement under this section, the Board shall have regard to the effect of inflation on the worker's pre-injury earning rate and to any payments the worker receives under the Canada Pension Plan or the Quebec Pension Plan with respect to a disability arising from the injury.

Form of
payment

(12) A supplement under this section shall be a monthly or other periodic payment.

Recalculation

(13) The Board shall review a supplement given under subsection (4) in the twenty-fourth month following the award and in the sixtieth month following the award and recalculate the amount of the supplement in accordance with subsections (9) and (10).

29.—(1) Subsection 141 (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 17, section 5, is amended by striking out “(3)” in the second line.

(2) Subsection 141 (2) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 17, section 5, is amended by striking out “or under subsection 133 (3), (4), (5) or 43 (9) as continued by section 132” in the second and third lines.

Commence-
ment

30.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 27 and section 29 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. The short title of this Act is the *Workers' Compensation Amendment Act, 1989*.

Bill 163

An Act to establish the Ministry of Financial Institutions

The Hon. R. Nixon
Minister of Financial Institutions

1st Reading June 21st, 1988
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session
by an Order of the Legislative Assembly
of March 2nd, 1989.*

Projet de loi 163

Loi portant création du ministère des Institutions financières

L'honorable R. Nixon
ministre des Institutions financières

1^{re} lecture 21 juin 1988
2^e lecture
3^e lecture
sanction royale

*Reporté de la 1^{re} session
par ordre de l'Assemblée législative
daté du 2 mars 1989.*

EXPLANATORY NOTE

The Bill establishes the Ministry of Financial Institutions.

NOTE EXPLICATIVE

Le projet de loi porte création du ministère des Institutions financières.

Bill 163**1989****An Act to establish the
Ministry of Financial Institutions**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,"sous-
ministre"

"Deputy Minister" means the Deputy Minister of Financial Institutions;

"ministre"

"Minister" means the Minister of Financial Institutions;

"ministère"

"Ministry" means the Ministry of Financial Institutions.

Ministry
established**2.** There shall be a ministry of the public service to be known as the Ministry of Financial Institutions.Minister to
have charge**3.** The Minister shall preside over and have charge of the Ministry and has power to act for and on behalf of the Ministry.Functions of
Minister**4.—(1)** The functions of the Minister are,

- (a) to advise the Government respecting financial institutions and services in Ontario;
- (b) to develop policies to increase the domestic and international competitiveness of Ontario in the financial services sector;
- (c) to develop policies and programs to improve protection for the consumer of financial services;
- (d) to appoint task forces and advisory committees and to conduct studies respecting financial institutions and services;

Projet de loi 163**1989****Loi portant création du
ministère des Institutions financières**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«ministère» Le ministère des Institutions financières. «Ministry»

«ministre» Le ministre des Institutions financières. «Minister»

«sous-ministre» Le sous-ministre des Institutions financières. «Deputy Minister»

2 Est créé un ministère de la fonction publique portant le nom de ministère des Institutions financières. Création du ministère

3 Le ministre dirige le ministère et en a la responsabilité. Il a le pouvoir d'agir pour le compte du ministère et en son nom. Responsabilité du ministre

4 (1) Les fonctions du ministre sont les suivantes : Fonctions du ministre

- a) conseiller le gouvernement en ce qui a trait aux institutions financières et aux services financiers en Ontario;
- b) élaborer des politiques visant à accroître la compétitivité de l'Ontario dans le secteur des services financiers, au Canada et à l'étranger;
- c) élaborer des politiques et des programmes visant à mieux protéger les consommateurs de services financiers;
- d) constituer des groupes de travail et des comités consultatifs et effectuer des études portant sur les institutions financières et les services financiers;

- (e) to promote investor confidence in financial institutions in Ontario;
- (f) to develop systems for monitoring the financial stability of financial institutions;
- (g) to assist in the rehabilitation of financial institutions when it is in the public interest to do so;
- (h) to collect and disseminate information on financial institutions and services in Ontario; and
- (i) to promote high standards of business and management for financial institutions and others who provide financial services in Ontario.

Idem

(2) For the purpose of carrying out his or her functions under this Act, the Minister may,

- (a) make grants and loans out of moneys appropriated by the Legislature;
- (b) provide funding for task forces, advisory committees and studies; and
- (c) enter into agreements with any government, agency or person.

Admini-
stration of
Acts

5.—(1) The Minister is responsible for the administration of this Act and the Acts that are or have been assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Annual
report

(2) After the end of each fiscal year, the Minister shall submit to the Lieutenant Governor in Council an annual report on the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Financial Institutions who shall be the deputy head of the Ministry.

Staff
R.S.O. 1980,
c. 418

(2) Subject to the *Public Service Act*, there may be appointed such other employees as are considered necessary for the proper conduct of the business of the Ministry.

- e) favoriser la confiance des investisseurs dans les institutions financières de l'Ontario;
- f) élaborer des systèmes de contrôle de la stabilité financière des institutions financières;
- g) aider au redressement de la situation des institutions financières quand cela est dans l'intérêt du public;
- h) rassembler et diffuser des renseignements sur les institutions financières et les services financiers en Ontario;
- i) favoriser l'élaboration et le respect, par les institutions financières et autres fournisseurs de services financiers en Ontario, de normes élevées dans leurs affaires et leur gestion.

(2) Dans l'exercice de ses fonctions en vertu de la présente loi, le ministre peut : Idem

- a) accorder des subventions et consentir des prêts en prélevant les sommes affectées à cette fin par la Législature;
- b) pourvoir au financement de groupes de travail, de comités consultatifs et des études qui sont faites;
- c) conclure des ententes avec un gouvernement, un organisme ou une personne.

5 (1) Le ministre est chargé de l'application de la présente loi et des lois qui lui sont confiées ou qui lui ont été confiées par la Législature ou par le lieutenant-gouverneur en conseil. Application
des lois

(2) Après la fin de chaque exercice, le ministre présente au lieutenant-gouverneur en conseil un rapport annuel sur les affaires du ministère. Le ministre le dépose ensuite devant l'Assemblée. Si celle-ci ne siège pas, il le dépose à la session suivante. Rapport
annuel

6 (1) Le lieutenant-gouverneur en conseil nomme un sous-ministre des Institutions financières qui exerce les fonctions d'administrateur général du ministère. Sous-
ministre

(2) Sous réserve de la *Loi sur la fonction publique*, d'autres employés peuvent être nommés selon ce qui est jugé nécessaire afin d'assurer le bon fonctionnement du ministère. Personnel
L.R.O. 1980,
chap. 418

Delegation of
powers and
duties

7.—(1) Where, under this or any other Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister, to an employee of the Ministry or to any other public servant, subject to the conditions set out in the delegation.

Idem

R.S.O. 1980,
c. 274

(2) A delegation made under the *Ministry of Consumer and Commercial Relations Act* in relation to an Act administered by the Minister shall be deemed to have been made by the Minister.

Deeds and
contracts

R.S.O. 1980,
c. 147

(3) Despite section 6 of the *Executive Council Act*, a deed or contract signed by a person empowered to do so under a delegation made under subsection (1) has the same effect as if signed by the Minister.

Facsimile
signature

(4) The Minister may authorize the use of a facsimile of his or her signature and the Deputy Minister may authorize the use of a facsimile of his or her signature on any document except an affidavit or a statutory declaration.

Idem

(5) A facsimile of the signature of the Minister or the Deputy Minister affixed to a document under an authorization made under subsection (4) shall be deemed to be the signature of the Minister or the Deputy Minister, as the case may be.

Protection
from
personal
liability

8.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any employee of the Ministry, anyone acting under the authority of the Minister or the Deputy Minister, or anyone appointed under this Act or any other Act administered by the Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
liability

R.S.O. 1980,
c. 393

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Delegation of
power to
hold hearing

9.—(1) Where, under any Act,

- (a) the Minister;
- (b) the Superintendent of Insurance;
- (c) the Director of Credit Unions;

7 (1) Le ministre peut déléguer au sous-ministre, à un employé du ministère ou à un autre fonctionnaire tout pouvoir ou fonction que lui confère ou impose la présente loi ou une autre loi. La délégation est écrite et peut être assortie de conditions.

Délégation de pouvoirs et de fonctions

(2) La délégation faite aux termes de la *Loi sur le ministère de la Consommation et du Commerce* relativement à une loi dont l'application relève du ministre, est réputée faite par le ministre.

Idem
L.R.O. 1980,
chap. 274

(3) Malgré l'article 6 de la *Loi sur le Conseil des ministres*, un acte ou un contrat signé par une personne habilitée à ce faire en vertu d'une délégation faite aux termes du paragraphe (1) a le même effet que s'il est signé par le ministre.

Actes et contrats
L.R.O. 1980,
chap. 147

(4) Le ministre et le sous-ministre peuvent chacun autoriser l'utilisation d'un fac-similé de leur signature sur tout document, à l'exclusion d'un affidavit ou d'une déclaration solennelle.

Fac-similé de signature

(5) Un fac-similé de la signature du ministre ou du sous-ministre apposé à un document en vertu d'une autorisation accordée aux termes du paragraphe (4) est réputé la signature du ministre ou du sous-ministre, selon le cas.

Idem

8 (1) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre le sous-ministre, un employé du ministère, quiconque agit sous l'autorité du ministre ou du sous-ministre ou quiconque nommé en vertu de la présente loi ou de toute autre loi dont l'application relève du ministre, pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de leurs fonctions ou pour une négligence ou un défaut imputés dans l'exercice de bonne foi de leurs fonctions.

Immunité

(2) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Responsabilité de la Couronne
L.R.O. 1980,
chap. 393

9 (1) Si, en vertu d'une loi :

Délégation du pouvoir de tenir une audience

- a) le ministre;
- b) le surintendant des assurances;
- c) le directeur des caisses populaires;

1987, c. 33 (d) the Superintendent or the Director appointed under the *Loan and Trust Corporations Act, 1987*; or

R.S.O. 1980, c. 249 (e) the Registrar appointed under the *Loan and Trust Corporations Act*,

has the power or duty to hold a hearing before making a decision, he or she may delegate the power and duty to hold a hearing and make a decision to one or more persons appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

Appointment
by
Lieutenant
Governor in
Council

(2) The Lieutenant Governor in Council, on the recommendation of the Minister, may by order appoint persons, including members of the public service, for any purpose mentioned in subsection (1), who shall hold office during pleasure.

Presiding
officer

(3) Where more than one person is delegated a power or duty under subsection (1), the person who delegated the power or duty shall designate one of them as presiding officer.

Remuner-
ation and
expenses

(4) Persons appointed under subsection (2), other than members of the public service, shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and the reasonable expenses incurred by them in the course of their duties under this Act.

Decisions

(5) Where more than one person is delegated a power or duty under subsection (1), the decision of the majority shall be deemed to be the decision of the person who delegated the power or duty, but, if there is no majority, the decision of the presiding officer governs.

Accounting
statement
respecting
grant or loan
R.S.O. 1980,
c. 405

10.—(1) The Minister may require a recipient of a grant or loan under this Act to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the grant or loan by the recipient.

Idem

(2) Where the Minister requires a statement under subsection (1), the recipient shall arrange for the preparation of the statement forthwith and provide the statement as soon as practicable.

Guarantee of
loans

11.—(1) On the recommendation of the Treasurer of Ontario and Minister of Economics, the Lieutenant Governor in Council may, for any of the purposes of this Act, guarantee the payment of any loan or a part thereof, together with interest thereon, made to any person.

- d) le surintendant ou le directeur nommé aux termes de la *Loi de 1987 sur les compagnies de prêt et de fiducie*; 1987, chap. 33
- e) le registrateur nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*, L.R.O. 1980, chap. 249

a, selon le cas, le pouvoir ou la fonction de tenir une audience avant de prendre une décision, il peut déléguer ce pouvoir ou cette fonction à une ou plusieurs personnes qu'a nommées le lieutenant-gouverneur en conseil sur la recommandation du ministre.

(2) Le lieutenant-gouverneur en conseil, sur la recommandation du ministre, peut, par décret, nommer des personnes, y compris des membres de la fonction publique, à l'une des fins prévues au paragraphe (1). Ces personnes exercent leurs fonctions à titre amovible. Nomination par le lieutenant-gouverneur en conseil

(3) Si un pouvoir ou une fonction est délégué à plus d'une personne aux termes du paragraphe (1), la personne qui a délégué le pouvoir ou la fonction désigne une de ces personnes comme président. Président

(4) Les personnes nommées aux termes du paragraphe (2), à l'exclusion des membres de la fonction publique, reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et le paiement des frais normaux qu'elles ont engagés dans l'exercice de leurs fonctions aux termes de la présente loi. Rémunération et frais

(5) Si un pouvoir ou une fonction est délégué à plus d'une personne aux termes du paragraphe (1), la décision de la majorité est réputée la décision de la personne qui a délégué le pouvoir ou la fonction. En cas de partage, le président a voix prépondérante. Décisions

10 (1) Le ministre peut exiger du bénéficiaire d'une subvention accordée ou d'un prêt consenti en vertu de la présente loi qu'il lui présente un relevé établi par une personne agréée aux termes de la *Loi sur les experts-comptables* qui indique en détail la manière dont le bénéficiaire a fait usage des fonds provenant de la subvention ou du prêt. Relevé comptable concernant une subvention ou un prêt
L.R.O. 1980, chap. 405

(2) Si le ministre exige le relevé visé au paragraphe (1), le bénéficiaire prend sans délai les dispositions nécessaires à l'établissement du relevé qu'il fournit dès que cela est possible. Idem

11 (1) Sur la recommandation du trésorier de l'Ontario et ministre de l'Économie, le lieutenant-gouverneur en conseil peut, pour toute application de la présente loi, garantir le Prêts garantis

Form of
guarantee

(2) A guarantee under subsection (1) shall be in the form and on the terms approved by the Lieutenant Governor in Council and shall be signed by the Treasurer of Ontario or by such other persons as the Lieutenant Governor in Council designates.

Province
liable for
payment

(3) The Province of Ontario is liable for the payment of the loan or part thereof and interest thereon according to the terms of the guarantee signed in accordance with subsection (2).

Payment of
interest

(4) Where a guarantee is given under subsection (1), the Lieutenant Governor in Council may authorize the payment by the Province of Ontario of the whole or any part of the interest on the loan for the whole or any part of the term of the guarantee.

Payment of
guarantee

(5) The moneys necessary to fulfil the requirements of any guarantee under this section shall be paid out of the Consolidated Revenue Fund.

Offence

12. No person shall, in respect of a grant or loan made under this Act,

- (a) make a false or misleading statement in an application or other document;
- (b) furnish any false or misleading information; or
- (c) expend or commit the whole or part of the grant or loan for a purpose other than the purpose for which it was given.

Appointment
of investi-
gators

13.—(1) The Minister may appoint employees of the Ministry as investigators to carry out investigations related to any grant, loan, guarantee or agreement made or given under this Act.

Powers on
investigation

(2) An investigator, for the purpose of carrying out an investigation under subsection (1), may,

- (a) enter any place at any reasonable time;

remboursement de la totalité ou d'une partie d'un prêt consenti à quiconque, ainsi que le paiement des intérêts qui s'y rapportent.

(2) Le lieutenant-gouverneur en conseil approuve la forme de la garantie et les conditions de celle-ci. Cette garantie est signée par le trésorier de l'Ontario ou par les personnes que le lieutenant-gouverneur en conseil désigne.

Forme de la
garantie

(3) La province de l'Ontario est responsable du remboursement de la totalité ou d'une partie du prêt, ainsi que du paiement des intérêts qui s'y rapportent, selon les conditions de la garantie signée conformément au paragraphe (2).

La province
est responsa-
ble du
paiement

(4) S'il a donné une garantie aux termes du paragraphe (1), le lieutenant-gouverneur en conseil peut autoriser le paiement, par la province de l'Ontario, de la totalité ou d'une partie des intérêts qui se rapportent au prêt pour l'ensemble ou une partie de la durée de la garantie.

Paiement des
intérêts

(5) Les fonds nécessaires pour honorer les obligations qui découlent d'une garantie donnée aux termes du présent article sont prélevés sur le Fonds du revenu consolidé.

Paiement du
montant cou-
vert par la
garantie

12 En ce qui concerne une subvention accordée ou un prêt consenti en vertu de la présente loi, nul ne doit :

Infraction

- a) faire une déclaration fausse ou trompeuse sur une demande ou un autre document;
- b) fournir des renseignements faux ou trompeurs;
- c) dépenser ou affecter la totalité ou une partie de la subvention ou du prêt à une fin autre que celle faisant l'objet de la somme accordée.

13 (1) Le ministre peut nommer, parmi les employés du ministère, des enquêteurs pour qu'ils effectuent des enquêtes portant sur une subvention accordée, un prêt consenti, une garantie donnée ou une entente conclue en vertu de la présente loi.

Nomination
d'enquêteurs

(2) Dans le cadre de l'enquête visée au paragraphe (1), l'enquêteur peut :

Pouvoirs des
enquêteurs

- a) pénétrer dans un endroit quelconque, à une heure raisonnable;

- (b) request the production for inspection of documents or things that may be relevant to the investigation;
- (c) on giving a receipt therefor, remove from a place documents or things produced in response to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them; and
- (d) question a person on matters that are or may be relevant to the investigation, subject to the person's right to have counsel or some other representative present during the examination.

Identification

(3) An investigator exercising a power under this Act shall provide identification at the time of entry.

Entry to dwellings

(4) An investigator shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier, except under the authority of a warrant issued under this section.

Warrant for search

(5) Where a justice of the peace is satisfied on information upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to an investigation under this section, the justice of the peace may issue a warrant authorizing the investigator named in the warrant to search the place for any such documents or things and to remove them for the purpose of making copies or extracts, and they shall be returned promptly to the place from which they were removed.

Warrant for entry

(6) Where a justice of the peace is satisfied on information upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an investigator may carry out an investigation under this section, the justice of the peace may issue a warrant authorizing such entry by the investigator named in the warrant.

Execution and expiry of warrant

(7) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and

- b) exiger la production, à des fins d'inspection, de documents ou d'objets qui peuvent être pertinents à l'enquête;
- c) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent, les documents ou les objets produits à la suite de la demande formulée en vertu de l'alinéa b), aux fins d'en tirer des copies ou des extraits, après quoi ils sont promptement retournés à la personne qui les a produits;
- d) interroger quiconque sur des questions qui sont ou peuvent être pertinentes à l'enquête, sous réserve du droit de cette personne à la présence d'un avocat ou d'un autre représentant lors de l'interrogatoire.

(3) Dans l'exercice d'un pouvoir que confère la présente loi, l'enquêteur présente une pièce d'identité au moment de pénétrer dans un endroit.

Pièce
d'identité

(4) Le pouvoir accordé par la présente loi de pénétrer dans un endroit qui sert de logement ne doit pas être exercé sans la permission de l'occupant, sauf en vertu d'un mandat décerné aux termes du présent article.

Accès à un
logement

(5) Le juge de paix qui est convaincu, à la suite d'une dénonciation faite sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves pertinentes à l'enquête effectuée en vertu du présent article, peut décerner un mandat. Le mandat autorise l'enquêteur qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi ces pièces sont promptement retournées à cet endroit.

Mandat de
perquisition

(6) Le juge de paix qui est convaincu, à la suite d'une dénonciation faite sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un enquêteur, dans le cadre de l'enquête effectuée en vertu du présent article, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut décerner un mandat autorisant l'enquêteur qui y est nommé à pénétrer dans cet endroit.

Mandat pour
pénétrer dans
un endroit

(7) Le mandat décerné aux termes du présent article :

Exécution et
caducité du
mandat

- a) précise les heures et les jours pendant lesquels il peut être exécuté;

- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Admissibility
of copies

(8) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction
of
investigator

14.—(1) No person shall hinder, obstruct or interfere with an investigator in the execution of a warrant or otherwise impede an investigator in carrying out an investigation under subsection 13 (1).

Idem

(2) Subsection (1) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection 13 (5).

Offence

15.—(1) Every person who contravenes subsection 10 (2), section 12 or subsection 14 (1) and every director or officer of a corporation who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Idem

(2) Despite subsection (1), where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed on the corporation is \$100,000.

Restitution

(3) Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Limitation
period

(4) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister.

Repayment
of grant or
loan

(5) On a conviction for an offence under section 12, the amount of the grant or loan in respect of which the offence was committed, together with interest thereon, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

Definitions

16.—(1) In this section,

“organisme
du ministère”

“agency of the Ministry” means a body that is,

- b) porte une date de caducité qui ne peut être postérieure à quinze jours de la date où il a été décerné.

(8) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi, et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité
des copies

14 (1) Nul ne doit entraver ni gêner un enquêteur dans l'exécution d'un mandat ni d'une autre façon l'empêcher de mener l'enquête visée au paragraphe 13 (1).

Interdiction
d'entraver
l'enquêteur

(2) Sauf si un mandat a été décerné aux termes du paragraphe 13 (5), le paragraphe (1) n'est pas enfreint par le refus d'une personne de produire des documents ou des objets.

Idem

15 (1) Quiconque contrevient au paragraphe 10 (2), 14 (1) ou à l'article 12 et tout administrateur ou dirigeant d'une personne morale qui participe à cette contravention est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Infraction

(2) Malgré le paragraphe (1), si une personne morale est reconnue coupable d'une infraction aux termes du paragraphe (1), l'amende maximale qui peut lui être imposée est de 100 000 \$.

Idem

(3) Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable de l'infraction aux termes de la présente loi de verser une indemnité ou de faire restitution en conséquence.

Restitution

(4) Est irrecevable la poursuite intentée relativement à une infraction à la présente loi plus de deux ans après que les faits sur lesquels elle se fonde ont été portés en premier lieu à la connaissance du ministre.

Prescription

(5) En cas de condamnation pour une infraction aux termes de l'article 12, le montant de la subvention ou du prêt à l'égard duquel l'infraction a été commise, ainsi que les intérêts qui s'y rapportent, sont réputés une dette payable à la Couronne et peuvent être recouvrés au moyen d'une action intentée devant un tribunal compétent.

Remboursement d'un
prêt ou d'une
subvention

16 (1) Les définitions qui suivent s'appliquent au présent article.

Définitions

«organisme du ministère» S'entend d'une entité qui est :

«agency of the
Ministry»

1987, c. 25

“organisme
du ministère
de la
Consom-
mation et du
Commerce”

- (a) constituted under this Act or any other Act administered by the Minister, and
- (b) designated as an institution in the regulations made under the *Freedom of Information and Protection of Privacy Act, 1987*;

“agency of the Ministry of Consumer and Commercial Relations” means a body, other than The Commercial Registration Appeal Tribunal, that is,

- (a) constituted under an Act administered by the Minister of Consumer and Commercial Relations, and
- (b) designated as an institution in the regulations made under the *Freedom of Information and Protection of Privacy Act, 1987*;

“renseigne-
ments
personnels”

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act, 1987*.

Disclosure of
personal
information

(2) Despite section 42 of the *Freedom of Information and Protection of Privacy Act, 1987*, the Ministry may disclose any personal information in its custody or under its control to an employee of,

- (a) an agency of the Ministry;
- (b) the Ministry of Consumer and Commercial Relations; or
- (c) an agency of the Ministry of Consumer and Commercial Relations,

who requires the information in the performance of his or her duties and where disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Idem
1987, c. 25

(3) Despite section 42 of the *Freedom of Information and Protection of Privacy Act, 1987*, an agency of the Ministry may disclose any personal information in its custody or under its control to an employee of,

- (a) the Ministry;
- (b) any other agency of the Ministry;
- (c) the Ministry of Consumer and Commercial Relations; or

- a) d'une part, créée en vertu de la présente loi ou de toute autre loi dont l'application relève du ministre;
- b) d'autre part, désignée comme institution dans les règlements pris en application de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*. 1987, chap. 25

«organisme du ministère de la Consommation et du Commerce» S'entend d'une entité, autre que la Commission d'appel des enregistrements commerciaux, qui est : «agency of the Ministry of Consumer and Commercial Relations»

- a) d'une part, créée en vertu d'une loi dont l'application relève du ministre de la Consommation et du Commerce;
- b) d'autre part, désignée comme institution dans les règlements pris en application de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*.

«renseignements personnels» S'entend au sens de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*. «personal information»

(2) Malgré l'article 42 de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*, le ministre peut divulguer les renseignements personnels dont il a la garde ou le contrôle à l'employé : Divulgarion de renseignements personnels

- a) d'un organisme du ministère;
- b) du ministère de la Consommation et du Commerce;
- c) d'un organisme du ministère de la Consommation et du Commerce,

qui exige ces renseignements dans l'exercice de ses fonctions, si cette divulgation est nécessaire à l'application de la présente loi ou de toute autre loi dont l'application relève du ministre et des règlements pris en application de celle-ci.

(3) Malgré l'article 42 de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*, l'organisme du ministère peut divulguer les renseignements personnels dont il a la garde ou le contrôle à l'employé : Idem 1987, chap. 25

- a) du ministère;
- b) d'un autre organisme du ministère;
- c) du ministère de la Consommation et du Commerce;

- (d) an agency of the Ministry of Consumer and Commercial Relations,

who requires the information in the performance of his or her duties and where disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Disclosure to
R.I.B.O.

(4) The Ministry or an agency of the Ministry may disclose any personal information in its custody or under its control to an employee of the Registered Insurance Brokers of Ontario if,

R.S.O. 1980,
c. 444

- (a) the personal information is reasonably required to verify the truth of the contents of an application for a certificate of registration or an application for renewal of a certificate of registration as an insurance broker under the *Registered Insurance Brokers Act*, or to verify the truth of any other information supplied in support of any such application; or

- (b) the Ministry or agency of the Ministry has reasonable grounds to believe that the personal information is relevant to a person's qualification to hold a certificate of registration as an insurance broker under the *Registered Insurance Brokers Act*.

Consent
required for
further
disclosure

(5) No person shall disclose personal information obtained under subsection (4) unless the person to whom the information relates has identified that information in particular and consented to its disclosure.

Exception

(6) Despite subsection (5), personal information obtained under subsection (4) may be disclosed in a notice required to be given or at a hearing required to be held under the *Registered Insurance Brokers Act*.

Offence

(7) Every person who wilfully contravenes subsection (5) is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000.

Seal

17.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

- d) d'un organisme du ministère de la Consommation et du Commerce,

qui exige ces renseignements dans l'exercice de ses fonctions si cette divulgation est nécessaire à l'application de la présente loi ou de toute autre loi dont l'application relève du ministre et des règlements pris en application de celle-ci.

(4) Le ministère ou un organisme du ministère peut divulguer des renseignements personnels dont il a la garde ou le contrôle à un employé de la *Registered Insurance Brokers of Ontario* dans l'un des cas suivants :

Divulgateion à la R.I.B.O.

- a) ces renseignements personnels sont suffisamment nécessaires pour vérifier la véracité du contenu d'une demande de certificat d'inscription ou d'une demande de renouvellement d'inscription comme courtier d'assurances en vertu de la *Loi sur les courtiers d'assurances inscrits*, ou pour vérifier la véracité de tout autre renseignement fourni à l'appui d'une telle demande;

L.R.O. 1980, chap. 444

- b) le ministère ou l'organisme du ministère a des motifs raisonnables de croire que ces renseignements personnels sont pertinents pour établir si une personne possède les qualités requises pour détenir un certificat d'inscription comme courtier d'assurances en vertu de la *Loi sur les courtiers d'assurances inscrits*.

(5) Nul ne doit divulguer des renseignements personnels obtenus en vertu du paragraphe (4), à moins que la personne concernée par ces renseignements ne les ait identifiés spécifiquement et n'ait consenti à leur divulgation.

Nécessité du consentement pour une divulgation ultérieure

(6) Malgré le paragraphe (5), des renseignements personnels obtenus en vertu du paragraphe (4) peuvent être divulgués dans un avis qui doit être donné ou à une audience qui doit être tenue en vertu de la *Loi sur les courtiers d'assurances inscrits*.

Exception

(7) Quiconque contrevient sciemment au paragraphe (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$.

Infraction

17 (1) Le lieutenant-gouverneur en conseil peut autoriser le ministère à avoir un sceau.

Sceau

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed.

References to
Minister and
Ministry

18.—(1) Except where the context otherwise requires, in any Act administered by the Minister or in any regulation, order in council, ministerial order or other document, act or thing made or done under any such Act, a reference to the Minister or Deputy Minister of Consumer and Commercial Relations shall be deemed to be a reference to the Minister or Deputy Minister of Financial Institutions, so long as the Minister of Financial Institutions administers such Act or provision, and a reference therein to the Ministry of Consumer and Commercial Relations shall be deemed to be a reference to the Ministry of Financial Institutions.

Saving

R.S.O. 1980,
c. 274

(2) Nothing in this Act invalidates any regulation, order in council, ministerial order, act or thing made or done under the *Ministry of Consumer and Commercial Relations Act* or under any other Act for which the Minister of Consumer and Commercial Relations was responsible before this Act received Royal Assent.

19. Subsection 142 (2) of the *Co-operative Corporations Act*, being chapter 91 of the Revised Statutes of Ontario, 1980, is repealed.

20. Section 6 of the *Deposits Regulation Act*, being chapter 116 of the Revised Statutes of Ontario, 1980, is repealed.

21.—(1) Clause 1 (e) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(e) “Registrar” means the Registrar under an Act administered by the Minister.

(2) Paragraphs 3, 4, 5, 6, 7, 8, 9, 11 and 13 of section 4 of the said Act are repealed.

(3) The said Act is amended by adding thereto the following section:

Definitions

16.—(1) In this section,

“agency of the Ministry” means a body, other than The Commercial Registration Appeal Tribunal, that is,

(2) Le sceau peut être gravé, lithographié, imprimé ou reproduit par un autre moyen mécanique. Il a alors la même valeur que s'il était apposé manuellement. Idem

18 (1) Sauf si le contexte exige une interprétation contraire, dans une loi dont l'application relève du ministre ou dans un règlement, un décret, un arrêté ministériel ou un autre document, acte ou chose pris ou fait en application de cette loi, une mention du ministre ou du sous-ministre de la Consommation et du Commerce est réputée une mention du ministre ou du sous-ministre des Institutions financières, tant que l'application de cette loi ou disposition relève du ministre des Institutions financières. De même, une mention du ministre de la Consommation et du Commerce est réputée une mention du ministère des Institutions financières. Mention du ministre et du ministère

(2) Aucune disposition de la présente loi n'a pour effet d'invalider un règlement, un arrêté ministériel, un acte ou une chose pris ou fait en application de la *Loi sur le ministère de la Consommation et du Commerce* ou en vertu d'une autre loi dont l'application relevait du ministre de la Consommation et du Commerce avant que la présente loi ne reçoive la sanction royale. Exception
L.R.O. 1980,
chap. 274

19 Le paragraphe 142 (2) de la *Loi sur les coopératives*, qui constitue le chapitre 91 des Lois refondues de l'Ontario de 1980, est abrogé.

20 L'article 6 de la *Loi sur les dépositaires d'argent*, qui constitue le chapitre 116 des Lois refondues de l'Ontario de 1980, est abrogé.

21 (1) L'alinéa 1 (e) de la *Loi sur le ministère de la Consommation et du Commerce*, qui constitue le chapitre 274 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(e) "Registrar" means the Registrar under an Act administered by the Minister.*

(2) Les dispositions 3, 4, 5, 6, 7, 8, 9, 11 et 13 de l'article 4 de la loi sont abrogées.

(3) La loi est modifiée par adjonction de l'article suivant :

16 (1) In this section,

Definitions

"agency of the Ministry" means a body, other than The Commercial Registration Appeal Tribunal, that is,

1987, c. 25

- (a) constituted under this Act or any other Act administered by the Minister, and
- (b) designated as an institution in the regulations made under the *Freedom of Information and Protection of Privacy Act, 1987*;

“agency of the Ministry of Financial Institutions” means a body that is,

- (a) constituted under an Act administered by the Minister of Financial Institutions, and
- (b) designated as an institution in the regulations made under the *Freedom of Information and Protection of Privacy Act, 1987*;

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act, 1987*.

Disclosure of
personal
information

(2) Despite section 42 of the *Freedom of Information and Protection of Privacy Act, 1987*, the Ministry may disclose any personal information in its custody or under its control to an employee of,

- (a) an agency of the Ministry;
- (b) the Ministry of Financial Institutions; or
- (c) an agency of the Ministry of Financial Institutions,

who requires the information in the performance of his or her duties and where disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Idem

(3) Despite section 42 of the *Freedom of Information and Protection of Privacy Act, 1987*, an agency of the Ministry may disclose any personal information in its custody or under its control to an employee of,

- (a) the Ministry;
- (b) any other agency of the Ministry;
- (c) the Ministry of Financial Institutions; or
- (d) an agency of the Ministry of Financial Institutions,

- (a) constituted under this Act or any other Act administered by the Minister, and
- (b) designated as an institution in the regulations made under the *Freedom of Information and Protection of Privacy Act*, 1987, c. 25

“agency of the Ministry of Financial Institutions” means a body that is,

- (a) constituted under an Act administered by the Minister of Financial Institutions, and
- (b) designated as an institution in the regulations made under the *Freedom of Information and Protection of Privacy Act*, 1987;

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*, 1987.

(2) Despite section 42 of the *Freedom of Information and Protection of Privacy Act*, 1987, the Ministry may disclose any personal information in its custody or under its control to an employee of,

Disclosure of
personal
information

- (a) an agency of the Ministry;
- (b) the Ministry of Financial Institutions; or
- (c) an agency of the Ministry of Financial Institutions,

who requires the information in the performance of his or her duties and where disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

(3) Despite section 42 of the *Freedom of Information and Protection of Privacy Act*, 1987, an agency of the Ministry may disclose any personal information in its custody or under its control to an employee of,

Idem

- (a) the Ministry;
- (b) any other agency of the Ministry;
- (c) the Ministry of Financial Institutions; or
- (d) an agency of the Ministry of Financial Institutions,

who requires the information in the performance of his or her duties and where disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Disclosure to
R.I.B.O.

(4) The Ministry or an agency of the Ministry may disclose any personal information in its custody or under its control to an employee of the Registered Insurance Brokers of Ontario if,

R.S.O. 1980,
c. 444

(a) the personal information is reasonably required to verify the truth of the contents of an application for a certificate of registration or an application for renewal of a certificate of registration as an insurance broker under the *Registered Insurance Brokers Act*, or to verify the truth of any other information supplied in support of any such application; or

(b) the Ministry or agency of the Ministry has reasonable grounds to believe that the personal information is relevant to a person's qualification to hold a certificate of registration as an insurance broker under the *Registered Insurance Brokers Act*.

Consent
required for
further
disclosure

(5) No person shall disclose personal information obtained under subsection (4) unless the person to whom the information relates has identified that information in particular and consented to its disclosure.

Exception

(6) Despite subsection (5), personal information obtained under subsection (4) may be disclosed in a notice required to be given or at a hearing required to be held under the *Registered Insurance Brokers Act*.

Offence

(7) Every person who wilfully contravenes subsection (5) is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000.

22.—(1) Clause 1 (1) (b) of the *Mortgage Brokers Act*, being chapter 295 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 3 (2) of the said Act is amended by striking out "under the supervision of the Director" in the third line.

(3) Sections 24, 26, 30, 31 and 32 of the said Act are amended by striking out "Director" wherever that word occurs and inserting in lieu thereof in each instance "Registrar".

who requires the information in the performance of his or her duties and where disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

(4) The Ministry or an agency of the Ministry may disclose any personal information in its custody or under its control to an employee of the Registered Insurance Brokers of Ontario if,

Disclosure to
R.I.B.O.

- (a) the personal information is reasonably required to verify the truth of the contents of an application for a certificate of registration or an application for renewal of a certificate of registration as an insurance broker under the *Registered Insurance Brokers Act*, or to verify the truth of any other information supplied in support of any such application; or

R.S.O. 1980,
c. 444

- (b) the Ministry or agency of the Ministry has reasonable grounds to believe that the personal information is relevant to a person's qualification to hold a certificate of registration as an insurance broker under the *Registered Insurance Brokers Act*.

(5) No person shall disclose personal information obtained under subsection (4) unless the person to whom the information relates has identified that information in particular and consented to its disclosure.

Consent
required for
further
disclosure

(6) Despite subsection (5), personal information obtained under subsection (4) may be disclosed in a notice required to be given or at a hearing required to be held under the *Registered Insurance Brokers Act*.

Exception

(7) Every person who wilfully contravenes subsection (5) is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000.*

Offence

22 (1) L'alinéa 1 (1) (b) de la *Loi sur les courtiers en hypothèques*, qui constitue le chapitre 295 des Lois refondues de l'Ontario de 1980, est abrogé.

(2) Le paragraphe 3 (2) de la loi est modifié par suppression des mots «under the supervision of the Director» à la troisième ligne.

(3) Les articles 24, 26, 30, 31 et 32 de la loi sont modifiés par substitution, à «Director» partout où ce mot apparaît, du mot «Registrar».

(4) Subsection 27 (3) of the said Act is amended by striking out “with the approval of the Director” in the second line.

23.—(1) Clause 26 (1) (a) of the *Registered Insurance Brokers Act*, being chapter 444 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

.

(2) Subsection 26 (1) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

Commence-
ment

24.—(1) This Act, except clause 9 (1) (d), shall be deemed to have come into force on the 1st day of April, 1986.

Idem

(2) Clause 9 (1) (d) shall be deemed to have come into force on the 5th day of April, 1988 and clause 9 (1) (e) shall be deemed to have been repealed on that day.

Short title

25. The short title of this Act is the *Ministry of Financial Institutions Act, 1989*.

(4) Le paragraphe 27 (3) de la loi est modifié par suppression des mots «with the approval of the Director» à la deuxième ligne.

23 (1) L'alinéa 26 (1) (a) de la *Loi sur l'inscription des courtiers d'assurances*, qui constitue le chapitre 444 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

.

(2) Le paragraphe 26 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

24 (1) La présente loi, à l'exception de l'alinéa 9 (1) d), est réputée être entrée en vigueur le 1^{er} avril 1986. Entrée en vigueur

(2) L'alinéa 9 (1) d) est réputé être entré en vigueur le 5 avril 1988 et l'alinéa 9 (1) e) est réputé avoir été abrogé ce même jour. Idem

25 Le titre abrégé de la présente loi est *Loi de 1989 sur le ministère des Institutions financières*. Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

Bill 164

An Act to amend the Law Society Act with respect to Insurance

The Hon. I. Scott
Attorney General



1st Reading May 2nd, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill permits the Law Society of Upper Canada to hold an interest in an insurance corporation incorporated to provide professional liability insurance to lawyers.

Bill 164

1990

**An Act to amend the
Law Society Act with respect to Insurance**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Law Society Act* is amended by adding the following subsection: R.S.O. 1980,
c. 233

(4) The Society may own shares of or hold a membership interest in an insurance corporation incorporated for the purpose of providing professional liability insurance to members and to persons qualified to practise law outside Ontario in Canada. Capacity to
hold an
interest in an
insurance
corporation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Law Society Amendment Act (Insurance), 1990*. Short title

Bill 164

*(Chapter 14
Statutes of Ontario, 1990)*

An Act to amend the Law Society Act with respect to Insurance

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	May 2nd, 1990
<i>2nd Reading</i>	June 27th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 164

1990

**An Act to amend the
Law Society Act with respect to Insurance**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Law Society Act* is amended by adding the following subsection: R.S.O. 1980,
c. 233

(4) The Society may own shares of or hold a membership interest in an insurance corporation incorporated for the purpose of providing professional liability insurance to members and to persons qualified to practise law outside Ontario in Canada. Capacity to
hold an
interest in an
insurance
corporation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Law Society Amendment (Insurance) Act, 1990*. Short title

Bill 165

An Act to amend the Environmental Protection Act

Mr. Allen



1st Reading May 8th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to authorize the making of regulations to promote waste reduction in Ontario.

Bill 165

1990

An Act to amend the Environmental Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 136 of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1983, chapter 52, section 23, 1986, chapter 68, section 11, 1988, chapter 54, section 45 and 1989, chapter 30, section 2, is further amended by adding the following subsection:

R.S.O. 1980,
c. 141

(1a) The Lieutenant Governor in Council may make regulations,

Regulations
relating to
waste
reduction

- (a) establishing programs to assist municipalities, to achieve, by the 1st day of January, 2000, a 50 per cent reduction in the amount of waste being deposited at waste disposal sites, using 1990 as the baseline year;
- (b) establishing reduction plans for the reduction of designated wastes within prescribed time periods;
- (c) designating types of waste that shall be covered by waste reduction plans and prescribing time periods for the reduction of designated wastes;
- (d) designating materials that shall be subject to source separation;
- (e) governing the phasing out of the use of containers and packaging for which there are waste reduction alternatives;
- (f) designating containers and packaging that are required to be phased out and prescribing time periods for phasing out such containers and packaging;

- (g) designating disposable products for which non-disposable substitutes are available and prohibiting the use of such products;
- (h) prescribing durability standards for consumer products;
- (i) governing the sale and distribution of consumer products that do not meet prescribed durability standards;
- (j) governing the reuse and recycling of containers and packaging;
- (k) requiring manufacturers of designated products to use such proportion of recoverable materials as is prescribed;
- (l) prescribing the proportion of recoverable materials to be used in designated products;
- (m) designating products for the purpose of clauses (k) and (l);
- (n) requiring municipalities,
 - (i) to encourage the diversion of waste from disposal by landfilling or incineration by passing by-laws to promote waste reduction at source, reuse of materials and recycling of materials,
 - (ii) to establish source separation programs for designated materials,
 - (iii) to pass by-laws requiring persons resident in the municipality to perform source separation of designated materials;
- (o) authorizing municipalities,
 - (i) to refuse to collect waste for disposal if the waste has not been properly separated,
 - (ii) to refuse to accept waste at disposal sites if the waste can be reused or recycled.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Environmental Protection Amendment Act, 1990*. Short title

Bill 166

An Act to amend the Highway Traffic Act

Mrs. Cunningham



1st Reading May 15th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to amend the *Highway Traffic Act* to require helmets to be worn by bicyclists and by children being carried as passengers on bicycles. The Bill would also require that a child being carried on a bicycle be carried in an approved child carrier device.

SECTION 1.— Subsection 1. Subsection 88 (1) of the Act currently requires a helmet to be worn by persons riding on or operating a motorcycle or motor assisted bicycle on a highway. The amendment would extend this requirement to persons riding on a bicycle.

Subsection 2. The amendment would require a child being carried as a passenger on a bicycle to be carried in an approved child carrier device and to wear a helmet.

Subsection 3. Consequential amendments are made to subsection 88 (2) of the Act.

Bill 166

1990

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 88 (1) of the *Highway Traffic Act*, as re-enacted by the Statutes of Ontario, 1983, chapter 63, section 19, is repealed and the following substituted:

R.S.O. 1980,
c. 198

(1) No person shall ride on or operate a motorcycle, motor assisted bicycle or bicycle on a highway unless he or she is wearing a helmet that complies with the regulations and the chin strap of the helmet is securely fastened under the chin.

Helmet
required

(2) Section 88 of the Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 19, is amended by adding the following subsection:

(1b) No person shall carry a child as a passenger on a bicycle unless,

Child
passenger on
bicycle

(a) the bicycle is equipped with a child carrier device that complies with the regulations;

(b) the child is carried in the child carrier device; and

(c) the child is wearing a helmet that complies with the regulations and the chin strap of the helmet is securely fastened under the chin.

(3) Subsection 88 (2) of the Act is repealed and the following substituted:

(2) The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing the standards and specifications of helmets referred to in subsections (1), (1a) and (1b);

- (b) prescribing the standards and specifications of child carrier devices referred to in subsection (1b);
- (c) providing for and requiring the identification and marking of such helmets and child carrier devices.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Highway Traffic Amendment Act, 1990*.

Bill 167

An Act to amend the Ontario Food Terminal Act

Mr. Sterling



1st Reading May 15th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Section 12 of the *Ontario Food Terminal Act* places restrictions on the establishment of new wholesale markets for the sale of fruit and vegetables in the region served by the Ontario Food Terminal. The purpose of the Bill is to repeal section 12 in order to remove this restriction and permit free competition.

The repeal of section 13 of the Act is consequential to the repeal of section 12.

Bill 167**1990****An Act to amend the Ontario Food Terminal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Sections 12 and 13 of the *Ontario Food Terminal Act* are repealed.** R.S.O. 1980,
c. 334
- 2. This Act comes into force on the day it receives Royal Assent.** Commence-
ment
- 3. The short title of this Act is the *Ontario Food Terminal Amendment Act, 1990*.** Short title

Bill 167

(Chapter 6
Statutes of Ontario, 1990)

An Act to amend the Ontario Food Terminal Act

Mr. Sterling



<i>1st Reading</i>	May 15th, 1990
<i>2nd Reading</i>	June 6th, 1990
<i>3rd Reading</i>	June 6th, 1990
<i>Royal Assent</i>	June 21st, 1990

Bill 167**1990****An Act to amend the Ontario Food Terminal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Sections 12 and 13 of the *Ontario Food Terminal Act* are repealed.** R.S.O. 1980,
c. 334
- 2. This Act comes into force on the day it receives Royal Assent.** Commence-
ment
- 3. The short title of this Act is the *Ontario Food Terminal Amendment Act, 1990*.** Short title

Bill 168

An Act to amend the Regional Municipality of Ottawa-Carleton Act

The Hon. J. Sweeney
Minister of Municipal Affairs



1st Reading May 17th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the direct election of regional councillors to the council of The Regional Municipality of Ottawa-Carleton. The Regional Council would be composed of the mayor of each of the eleven area municipalities and one regional councillor for each regional ward to be established under the Act.

Bill 168

1990

**An Act to amend the
Regional Municipality of Ottawa-Carleton Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Regional Municipality of Ottawa-Carleton Act* is amended by adding the following clauses: R.S.O. 1980,
c. 439

(ga) “local ward” means a ward established for electing a member or members to the council of an area municipality;

.

(na) “regional councillor” means a person described in clause 4 (1) (b);

.

(oa) “regional ward” means a ward established for electing a regional councillor to the Regional Council.

2.—(1) Subsection 4 (1) of the Act is repealed and the following substituted:

(1) The Regional Council shall be composed of,

Composition
of Regional
Council

(a) the mayor of each of the eleven area municipalities;
and

(b) one regional councillor for each regional ward established under section 7a, 7b or 8 who shall be elected by the electors of the regional ward.

(1a) The elections to the office of regional councillor shall be conducted in accordance with the *Municipal Elections Act* and the clerk of the Regional Corporation is the returning officer for that purpose. Elections
R.S.O. 1980,
c. 308

(2) Subsection 4 (2) of the Act is amended by striking out “one of the members of the Regional Council, or any other person” in the fourth and fifth lines and substituting “a regional councillor”.

(3) Subsection 4 (3) of the Act is repealed and the following substituted:

Secret ballot

(3) The chairman may be elected by secret ballot if so decided by resolution of the Regional Council.

(4) Subsection 4 (4) of the Act is amended by inserting before “chairman” in the sixth line “regional councillor as”.

(5) Subsection 4 (5) of the Act is repealed and the following substituted:

Term

(5) The election of the regional councillors shall be held at the regular elections, and the regional councillors so elected shall hold office for a three-year term and until their successors are elected and the new Regional Council is organized.

Eligibility

(6) A person is eligible to be elected as a regional councillor for a regional ward if that person is eligible under the *Municipal Elections Act* to be elected or to be appointed a member of the council of an area municipality within which all or part of the regional ward is situated, but no person, except a mayor of an area municipality, may be a member of the Regional Council and the council of an area municipality at the same time.

3. Section 6 of the Act is repealed and the following substituted:

Composition
of council of
area municipality

6.—(1) The council of each area municipality shall be composed of a mayor elected by general vote who shall be the head of council and,

- (a) where there are no local wards in the area municipality, the number of members of council established under section 7a or 8, elected by general vote; or
- (b) where there are local wards in the area municipality, the number of members of council established under section 7a or 8, elected for each local ward by the electors of the ward.

No board of
control
R.S.O. 1980,
c. 302

(2) Despite sections 67 and 68 of the *Municipal Act*, no area municipality shall have a board of control.

4. Section 6a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 3, is repealed.

5. Section 7 of the Act is repealed and the following substituted:

7.—(1) The Minister may establish guidelines for any or all of the matters set out in subsection 7a (2). Guidelines

(2) The guidelines may provide that regional ward boundaries cross the boundaries of area municipalities. Boundaries

7a.—(1) The Minister shall appoint a commissioner. Commissioner

(2) The commissioner shall submit to the Minister, at a time specified by the Minister, a proposal with respect to, Proposal

(a) the number of regional wards, being not less than fourteen and not more than eighteen, which should be established;

(b) the boundaries of the regional wards;

(c) the name or number each regional ward shall bear;

(d) whether an area municipality should have local wards and, if so, the number of local wards;

(e) the boundaries of the local wards;

(f) the number of members of council to be elected by general vote in an area municipality or the number of members of council to be elected from each local ward in an area municipality;

(g) a different number of members being elected from different local wards within the same area municipality; and

(h) the name or number each local ward shall bear.

(3) The Minister, after the expiration of the time for the submission of the proposal by the commissioner, shall submit to the Lieutenant Governor in Council a recommendation with respect to the matters in subsection (2). Recommendation of Minister

(4) Upon receipt of the recommendation of the Minister, the Lieutenant Governor in Council by order shall provide for the matters in subsection (2). Order

Guidelines to
be considered

(5) In making a proposal under subsection (2), a recommendation under subsection (3) and an order under subsection (4), the commissioner, the Minister and the Lieutenant Governor in Council, respectively, shall have regard to the guidelines established by the Minister under section 7.

O.M.B.
order

7b.—(1) Despite this or any other Act, upon the application of the Regional Corporation authorized by a by-law of the council thereof, or upon the petition of electors in the Regional Area, the Municipal Board may by order divide, redivide or alter any or all of the regional wards.

Application
of
R.S.O. 1980,
c. 302, s. 13

(2) Section 13 of the *Municipal Act* applies with necessary modifications to a petition under subsection (1).

Contents of
order

(3) In an order under subsection (1), the Municipal Board shall,

- (a) establish a number of regional wards that is not less than fourteen and not more than eighteen;
- (b) have regard to the guidelines established by the Minister under section 7; and
- (c) designate the name or number each regional ward shall bear.

Idem

(4) In an order under subsection (1), the Municipal Board may divide, redivide or alter any or all of the local wards of an area municipality and designate the name or number each local ward shall bear.

Date order
effective

(5) An order made under subsection (1) shall come into effect on the 1st day of December, 1994 or on the 1st day of December in any subsequent year in which regular elections under the *Municipal Elections Act* occur but the regular elections held in that year shall be conducted as if the order was in effect.

R.S.O. 1980,
c. 308

6. Subsection 8 (1) of the Act is repealed and the following substituted:

O.M.B.
order

(1) Despite this or any other Act, upon the application of an area municipality authorized by a by-law of the council thereof, or upon the petition of the electors of that area municipality in accordance with section 13 of the *Municipal Act*, the Municipal Board may by order,

R.S.O. 1980,
c. 302

- (a) divide or redivide the area municipality into local wards and shall designate the name or number each local ward shall bear;
- (b) alter or dissolve any or all of the local wards in the area municipality; or
- (c) subject to clause 4 (1) (a) and section 6, vary the composition of the council of the area municipality.

(1a) In making an order under subsection (1), the Municipal Board shall have regard to the guidelines established by the Minister under section 7.

Guidelines to be followed

(1b) In making an order under subsection (1), the Municipal Board may exercise any of the powers under section 7b.

Powers respecting regional wards

(1c) An order made under subsection (1) shall come into effect on the 1st day of December, 1994 or on the 1st day of December in any subsequent year in which regular elections under the *Municipal Elections Act* occur, but the regular elections held in that year shall be conducted as if the order was in effect.

Date order effective

R.S.O. 1980, c. 308

7. Section 9 of the Act is repealed.

8. Section 10 of the Act is amended by inserting after “section” in the sixth line “7b or”.

9.—(1) Subsection 11 (2) of the Act is amended by striking out “after the councils of the area municipalities have held their first meetings under subsection (1), but in any event” in the second, third and fourth lines.

(2) Subsection 11 (3) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 6, is amended by striking out “is elected or appointed to represent an area municipality as a member of the Regional Council or” in the first and second lines.

(3) Subsection 11 (4) of the Act is repealed and the following substituted:

(4) Every member of the Regional Council, before entering on the duties of office, shall make and subscribe a declaration of office in Form 3 of the *Municipal Act* and an oath of allegiance in Form 1 of that Act.

Declaration and oath

R.S.O. 1980, c. 302

10. Section 13 of the Act, as amended by the Statutes of Ontario, 1982, chapter 26, section 5, is repealed and the following substituted:

Quorum

13.—(1) A majority of the members constituting the Regional Council is necessary to form a quorum and the concurring votes of a majority of the members present at any meeting are necessary to carry any resolution or other measure.

One vote

(2) Each member of the Regional Council has one vote.

11.—(1) Subsection 14 (1) of the Act is amended by striking out “some person” in the third line and substituting “a regional councillor”.

(2) Subsection 14 (2) of the Act is amended by striking out “who may be one of the members of the Regional Council, or any other person” in the fourth and fifth lines and substituting “who shall be a regional councillor”.

(3) Subsection 14 (3) of the Act is amended by striking out “person” in the third line and substituting “regional councillor”.

(4) Subsection 14 (3c) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 6, is repealed and the following substituted:

Vacancies,
mayors

(3c) The seat of a mayor on the Regional Council becomes vacant if the seat of that mayor on the council of an area municipality is declared vacant by the council of that area municipality and the seat of a mayor on the council of an area municipality becomes vacant if the seat of that mayor on the Regional Council is declared vacant by the Regional Council.

(5) Subsection 14 (3d) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 6, is amended by striking out “the seat of a member to be vacant” in the second line and substituting “the seat of a mayor on its respective council vacant”.

(6) Subsection 14 (3e) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 6, is amended by striking out “member” in the second line and in the fourth line and substituting in each instance “mayor”.

(7) Subsection 14 (4) of the Act is repealed and the following substituted:

(4) If a vacancy occurs on or before the 31st day of March of an election year, as defined in the *Municipal Elections Act*, in the office of a member who is a regional councillor,

Vacancies,
regional
councillors
R.S.O. 1980,
c. 308

(a) the Regional Council shall appoint a person to fill that vacancy, and sections 45 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy; or

R.S.O. 1980,
c. 302

(b) the clerk of the Regional Corporation shall hold an election to fill the vacancy in accordance with section 92 of the *Municipal Elections Act*,

as determined by by-law of the Regional Council.

(5) If a vacancy occurs after the 31st day of March of an election year, as defined in the *Municipal Elections Act*, in the office of a member who is a regional councillor, the Regional Council shall fill the vacancy and subsection 46 (3) of the *Municipal Act* applies with necessary modifications to the filling of the vacancy.

Idem

(6) In the event that the mayor of an area municipality is for any incapacity unable to fulfil the duties as a member of the Regional Council for a period exceeding one month, the council of the area municipality may by by-law appoint one of its members as an alternate representative to the Regional Council who shall act in place of the mayor during the incapacity.

Where mayor
incapacitated

(7) A by-law under subsection (6) shall not have effect for a period longer than one month from its effective date.

Duration of
by-law

(8) The Regional Corporation shall pay all reasonable expenses incurred by the area municipality with respect to the election under clause (4) (b).

Expenses of
election

(9) The chairman may resign his or her office by notice in writing filed with the clerk of the Regional Corporation and the office then becomes vacant.

Resignation
of chairman

(10) If a vacancy occurs in the office of the chairman when the Regional Council is not in session, the clerk of the Regional Corporation shall immediately notify the members of the vacancy and, if required in writing to do so by a majority of them, the clerk shall call a special meeting of the Regional Council to fill the vacancy.

Vacancy,
chairman

12. Subsection 15 (1) of the Act is amended by striking out “not more than half of whom shall be members of the council of the City of Ottawa” in the fifth, sixth and seventh lines.

13.—(1) Subsection 19 (1) of the Act is amended by striking out “one of its members” in the third line and substituting “a regional councillor”.

(2) Subsection 19 (2) of the Act is amended by striking out “a member of the Regional Council” in the first and second lines and substituting “a regional councillor”.

14. Forms 1 and 2 of the Act are repealed.

Commence-
ment

15.—(1) This Act, except sections 1, 5, 6 and 8, comes into force on the 1st day of December, 1991.

Idem

(2) Sections 1, 5, 6 and 8 come into force on the day this Act receives Royal Assent.

Transition
R.S.O. 1980,
c. 308

(3) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act was in force.

Short title

16. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Amendment Act, 1990*.

Bill 169

An Act to amend certain Acts relating to Freedom of Information and Protection of Privacy

The Hon. M. Elston

Chairman of the Management Board of Cabinet



1st Reading May 28th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

Freedom of Information and Protection of Privacy Act, 1987

SECTION 1.—Subsection 1. An internal reference is corrected.

Subsections 2 and 3. These provisions differ from the previous subsections 39 (2) and (3) by permitting collection of personal information without notice to the individual if the regulations provide that notice is not required. The provisions are redrafted to correspond with the comparable provisions of the *Municipal Freedom of Information and Protection of Privacy Act, 1989*.

Subsection 4. It is clarified that a head may delegate powers to an employee of the institution.

Subsection 5. At present, the Act provides that it does not apply to notes prepared by a person presiding in a proceeding in a court. The same protection is given here to a member of a tribunal holding a hearing in the exercise of a statutory power of decision.

Subsection 6. The confidentiality provision to be enacted in section 2, below, is included in the list of provisions that are to override the Act.

Occupational Health and Safety Act

SECTION 2. The new section 22ea provides the confidentiality provision required in order to allow the Ministry of Labour to receive confidential information from the federal Hazardous Materials Information Review Commission.

Bill 169

1990

An Act to amend certain Acts relating to Freedom of Information and Protection of Privacy

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 28 (1) (a) of the *Freedom of Information and Protection of Privacy Act, 1987* is amended by striking out “subsection 17 (1)” in the second line and substituting “section 17”. 1987, c. 25

(2) Subsections 39 (2) and (3) of the Act are repealed and the following substituted:

(2) If personal information is collected on behalf of an institution, the head shall inform the individual to whom the information relates of, Notice to individual

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of an officer or employee of the institution who can answer the individual's questions about the collection.

(3) Subsection (2) does not apply if, Exception

- (a) the head may refuse to disclose personal information under subsection 14 (1) or (2) (law enforcement);
- (b) the responsible minister waives the notice; or
- (c) the regulations provide that the notice is not required.

(3) Section 60 of the Act is amended by adding the following clause:

- (ib) prescribing circumstances under which the notice under subsection 39 (2) is not required.

(4) Subsection 62 (1) of the Act is repealed and the following substituted:

Delegation of
head's
powers

- (1) A head may in writing delegate a power or duty granted or vested in the head to an officer or employee of the institution, subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation.

(5) Section 65 of the Act is amended by adding the following subsection:

Idem

- (4) This Act does not apply to notes prepared by or for a member of a tribunal that is exercising a statutory power of decision if those notes are prepared for that person's personal use in connection with a proceeding in which the tribunal is required by law to hold a hearing.

(6) Subsection 67 (3) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 71, section 2, is amended by adding the following paragraph:

R.S.O. 1980,
c. 321

- 7a. Section 22ea of the *Occupational Health and Safety Act*.

R.S.O. 1980,
c. 321

2.—(1) The *Occupational Health and Safety Act* is amended by adding the following section:

Information
privileged

S.C. 1987,
c. 30,
Part III

22ea.—(1) Subject to subsection (2), all information obtained by an officer or employee of the Ministry from the Hazardous Materials Information Review Commission under subsection 46 (2) of the *Hazardous Materials Information Review Act* (Canada) is privileged and no officer or employee of the Ministry shall knowingly, without the consent in writing of the Commission,

- (a) communicate or allow to be communicated to any person any information obtained under that section;
- (b) allow any person to inspect or to have access to any part of a book, record, writing or other document containing any information obtained under that section.

(2) An officer or employee of the Ministry may communicate or allow to be communicated information described in subsection (1) or allow inspection of or access to any part of a book, record, writing or other document containing any such information to or by, Exception

- (a) another officer or employee of the Ministry for the purpose of administering or enforcing this Act; or
- (b) a physician or a medical professional prescribed under the *Hazardous Materials Information Review Act* (Canada) who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, a person in an emergency.

(3) No person who obtains any information under subsection (2) shall knowingly disclose that information to any other person or knowingly allow any other person to have access to that information except as may be necessary for the purposes mentioned in that subsection. Conditions

(2) Clause 34 (1) (aa) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 58, section 5, is repealed.

(3) Clause 34 (1) (ba) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 58, section 5, is repealed.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

4. The short title of this Act is the *Freedom of Information and Protection of Privacy Statute Law Amendment Act, 1990*. Short title

Bill 170

An Act to revise several Acts related to Aggregate Resources

The Hon. V. Kerrio
Minister of Natural Resources



1st Reading June 27th, 1988
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The Bill is the result of experience gained through administration of the *Pits and Quarries Control Act*, the *Mining Act* and the *Beach Protection Act*, from the report of the Ontario Mineral Aggregate Working Party and various representations on Bill 127 in 1980.

The new Act has four purposes:

1. To provide for the management of the aggregate resources of Ontario.
2. To control and regulate aggregate operations on Crown and private land.
3. To require the rehabilitation of land from which aggregate has been excavated.
4. To minimize adverse impact on the environment in respect of aggregate operations.

Bill 170

1989

**An Act to revise
several Acts related to Aggregate Resources**

TABLE OF CONTENTS

Section

1. Definitions

**PART I
GENERAL**

2. Purposes of Act
3. Administration of Act
4. Designation of inspectors
5. Application
6. Act binds the Crown

**PART II
LICENCES**

7. Licences required
8. Site plans for licences
9. Report
10. Compliance with zoning by-laws
11. Copies to municipalities
12. Matters to be considered by Minister
13. Issue of licences
14. Annual licence fees
15. Duties of licensees
16. Amendment of site plans
17. Inspection and review
18. Transfer of licence
19. Surrender of licence
20. Refusal to issue and refusal to consent to transfer of licence
21. Hearing by Board
22. Suspension of licence

**PART III
WAYSIDE PERMITS**

23. Application for permit
24. Permit fees
25. Site plans for wayside permits
26. Matters to be considered by Minister
27. Issue of permits
28. Copies to municipalities
29. Duties of permittees

Section

30. Variation of conditions
31. Expiration of permit
32. Suspension or revocation

**PART IV
ABANDONED PITS AND
QUARRIES**

33. Abandoned pits and quarries

**PART V
AGGREGATE PERMITS**

34. Aggregate permits required
35. Classes of aggregate permits
36. Information required
37. Issue of aggregate permits
38. Public authority
39. Renewal of permits
40. Duties of permittees
41. Transfer of permits
42. Revocation, refusal to issue or transfer
43. Notice to applicant or permittee
44. Entitlement to hearing
45. Suspension of permit
46. Royalties

**PART VI
REHABILITATION**

47. Application of Part
48. Duty to rehabilitate site
49. Waiver
50. Rehabilitation security payments by licensees
51. Rehabilitation security payments by permittees
52. Rehabilitation security accounts
53. Partial refunds
54. Refunds when rehabilitation fully performed
55. Entry upon site for rehabilitation

Section

56. When rehabilitation not performed

PART VII

OFFENCES AND PENALTIES

57. No operation of pit or quarry without licence
58. Penalty
59. Order for compliance

PART VIII

TERRITORY WITHOUT
MUNICIPAL ORGANIZATION

60. Notice of application for licence in area without municipal organization
61. Publication of notice

PART IX

MISCELLANEOUS

62. Record keeping
63. Restraining orders
64. Service of notices

Section

65. Joint effect
66. Act overrides municipal by-laws, etc.
67. Regulations
68. Relief from compliance
69. Pits and quarries under licence or permit under R.S.O. 1980, cc. 378, 268, 39
70. Non-application of s. 10, s. 11 (2-9) and waiver of s. 9
71. Act applies to pits and quarries in newly designated areas
72. Application under R.S.O. 1980, cc. 378, 268, 39 deemed application under this Act
73. Quarrying near Niagara escarpment
74. Licence or permit prevails
75. Aggregate deemed removed
76. Permits and licences under R.S.O. 1980, cc. 268, 39
77. Repeals
78. Commencement
79. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“aggregate” means gravel, sand, clay, earth, shale, rock other than metallic ores, stone, limestone, dolomite, sandstone, marble, granite or other prescribed material;

“Board” means the Ontario Municipal Board;

“Commissioner” means the Mining and Lands Commissioner;

“earth” does not include topsoil and peat;

“environment” means the use, condition and natural features of the site and adjacent lands;

“established pit or quarry” means a pit or quarry from which a substantial amount of aggregate has been excavated within the two-year period immediately before the part of Ontario in which the pit or quarry is located was designated under subsection 5 (2);

“excavate” includes the preparation of land for excavation and removal of hills, sand dunes, knolls, stones and rocks other than metallic ores from the general surface of the ground;

“final rehabilitation” means rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit performed after the excavation of aggregate and the progressive rehabilitation, if any, have been completed;

“highway” has the same meaning as in the *Public Transportation and Highway Improvement Act* and includes an unopened road allowance; R.S.O. 1980,
c. 421

“inspector” means any employee of the Ministry designated in writing by the Minister as an inspector for the purposes of this Act;

“land under water” means the bed, bank, beach, shore, bar, flat or water of or in any lake, river, stream or other waterbody or adjoining any channel or entrance thereto but does not include a waterbody resulting from excavation of aggregate below the water table;

“licence” means a licence for a pit or quarry issued under this Act;

“licensee” means a person who holds a licence;

“management” means the provision for the identification, orderly development and protection of the aggregate resources of Ontario;

“Minister” means the Minister of Natural Resources;

“Ministry” means the Ministry of Natural Resources;

“operate”, when used in relation to a pit or quarry, means “work” and includes all activities associated with a pit or quarry that are carried out on the site;

“permit” means an aggregate permit or a wayside permit issued under this Act;

“permittee” means a person who holds a permit;

“person” includes a public authority;

“pit” means land or land under water from which unconsolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

“prescribed” means prescribed by the regulations;

“progressive rehabilitation” means rehabilitation done sequentially in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit during the period that aggregate is being excavated;

R.S.O. 1980,
c. 303 “public authority” means the Crown, a municipality, a local board as defined in the *Municipal Affairs Act* or a local roads board;

“quarry” means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

“regional municipality” includes a district municipality and The Municipality of Metropolitan Toronto;

“regulations” means the regulations made under this Act;

“rehabilitate” means to treat land from which aggregate has been excavated so that the use or condition of the land,

(a) is restored to its former use or condition, or

(b) is changed to another use or condition that is or will be compatible with the use of adjacent land;

“site” means the land or land under water to which a licence or permit or an application therefor relates;

“Treasurer” means the Treasurer of Ontario and Minister of Economics;

1983, c. 1 “zoning by-law” means a by-law passed under section 34 of the *Planning Act, 1983* or any predecessor thereof and includes an order made under clause 46 (1) (a) of the *Planning Act, 1983* or any predecessor thereof and a land use regulation made under subsection 4 (1) of the *Parkway Belt Planning and Development Act* or any predecessor

R.S.O. 1980,
c. 368

thereof and includes zoning control by a development permit issued under the *Niagara Escarpment Planning and Development Act*. R.S.O. 1980, c. 378, s. 1, *amended*. R.S.O. 1980, c. 316

(2) The Minister may, in his or her absolute discretion, determine in cases where doubt exists, whether an excavation site is a pit or quarry. Determination by Minister of pit or quarry in cases of doubt

(3) The Minister, if of the opinion that the primary purpose of an excavation is not for the production of aggregate, may in his or her absolute discretion by order declare that the land or land under water on which the excavation is situate is not a pit or quarry for the purposes of this Act. Order that an excavation is not a pit or quarry

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed order under subsection (3), including reasons therefor, upon the clerk of the local municipality in which the excavation is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment. Notice to municipality

(5) The Minister may not issue the order until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. *New*. Delay in relief

PART I

GENERAL

2. The purposes of this Act are, Purposes of Act

- (a) to provide for the management of the aggregate resources of Ontario;
- (b) to control and regulate aggregate operations on Crown and private lands;
- (c) to require the rehabilitation of land from which aggregate has been excavated; and
- (d) to minimize adverse impact on the environment in respect of aggregate operations. *New*.

3.—(1) The Minister is responsible for the administration of this Act and the regulations. Administration of Act

(2) In administering this Act, the Minister may, Idem

- (a) initiate research related to technical matters pertaining to,
 - (i) the aggregate industry, including the transportation of aggregate and the rehabilitation of pits and quarries,
 - (ii) underground mining of aggregate, and
 - (iii) aggregate excavation from beneath water;
- (b) initiate studies of geological deposits that may yield aggregate of commercial qualities and quantities;
- (c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;
- (d) collect, analyze and publish statistics related to the aggregate industry;
- (e) initiate studies related to the uses of aggregate and the economics and operations of the aggregate industry;
- (f) advise ministries and municipalities on planning matters related to aggregate;
- (g) initiate studies related to abandoned pits and quarries;
- (h) initiate studies on environmental and social matters related to pits and quarries;
- (i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;
- (j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries;
- (k) employ any person to perform work in connection with any matter mentioned in this Act; and
- (l) consult with ministries and agencies. *New.*

Designation
of inspectors

4.—(1) The Minister may designate in writing any employee of the Ministry as an inspector for the purposes of this Act. R.S.O. 1980, c. 378, s. 1 (b), *amended*.

(2) An inspector, for the purpose of carrying out assigned duties, Powers of inspectors

- (a) may enter, at any reasonable time, any land, vessel or business premises that is or appears to be used or has or appears to have been used in respect of a pit or quarry or any activity or use related to aggregate or rehabilitation;
- (b) may require the production of a licence, a permit, any record or document respecting aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof;
- (c) may, upon giving a receipt therefor, remove any licence, permit, record or document produced under clause (b) and make copies thereof; and
- (d) may, alone or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material. R.S.O. 1980, c. 378, s. 13 (1), *amended*.

(3) An inspector who makes a copy under clause (2) (c) shall do so with dispatch and shall promptly return the original licence, permit, record or document. Copies

(4) Any copy made as provided in clause (2) (b) or (c) and certified to be a true copy by the inspector who carried out the inspection is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original licence, permit, record or document and its contents. *New.* Idem

5.—(1) This Act and the regulations apply to, Application

- (a) all aggregate and topsoil that is the property of the Crown or that is on land the surface rights of which are the property of the Crown;
- (b) private land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or a predecessor thereof; R.S.O. 1980, c. 378
- (c) private land in parts of Ontario that are designated under subsection (2); and
- (d) all land under water. *New.*

Designation
of parts

(2) The Lieutenant Governor in Council may make regulations designating parts of Ontario for the purpose of clause (1) (c). R.S.O. 1980, c. 378, s. 2, *amended*.

Redesign-
ation of
designated
parts

(3) The Lieutenant Governor in Council may make regulations redesignating the parts of Ontario that have been designated under the *Pits and Quarries Control Act* or a predecessor thereof. *New*.

Act binds the
Crown

6. This Act binds the Crown except where it specifically states otherwise. *New*.

PART II

LICENCES

Licences
required

7.—(1) No person shall, in a part of Ontario designated under section 5, operate a pit or quarry on land that is not land under water and the surface rights of which are not the property of the Crown except under the authority of and in accordance with a licence.

Application
for licence

(2) Any person may apply to the Minister, on a form provided by the Minister,

- (a) for a Class A licence to excavate annually more than 20,000 tonnes of aggregate from a pit or quarry; or
- (b) for a Class B licence to excavate annually 20,000 tonnes or less of aggregate from a pit or quarry.

Idem

(3) Every application for a licence must be accompanied by,

- (a) ten copies of the site plan referred to in section 8;
- (b) if the application is for a Class A licence, ten copies of the report referred to in section 9;
- (c) the information referred to in section 10; and
- (d) the prescribed application fee. R.S.O. 1980, c. 378, s. 4, *amended*.

Copies

(4) The number of copies of a site plan or of a report that are required to be submitted under subsection (3) may be varied, in specific situations, by the Minister.

(5) The Minister may require an applicant for a licence to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused.
New.

Additional
information

8.—(1) The site plan accompanying an application for a Class A licence must show,

Site plans for
licences

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and the use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location and type of fences;
- (h) the location of tree screens and the species and types of the trees;
- (i) the location, dimensions and design of earth berms;
- (j) any significant natural and man made features;
- (k) the location and size of existing and proposed stock-piles of aggregate, topsoil, subsoil and overburden;
- (l) the topography of the site including existing and estimated final contours;
- (m) every existing and proposed entrance to and exit from the site;
- (n) all existing and proposed roads on the site;
- (o) the water table and any existing surface water on and surrounding the site and proposed water diver-

sion, storage and drainage facilities on the site and points of discharge to surface waters;

- (p) subject to available information, the location of water wells on and within 300 metres of the site;
- (q) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (r) the sequence and direction of operation of the pit or quarry;
- (s) the progressive rehabilitation and final rehabilitation plans; and
- (t) any other necessary information respecting the site. R.S.O. 1980, c. 378, s. 4 (2), *amended*.

Idem

(2) The information required under subsection (1) must be presented in at least three separate drawings under the headings,

- (a) Existing Features;
- (b) Operational Plan; and
- (c) Progressive Rehabilitation and Final Rehabilitation Plans.

Idem

(3) For the purpose of subsection (2), the drawings must be at a scale of 1:2000, 1:5000 or, in any particular case, at such other scale as the Minister may approve.

Site plan

(4) Every site plan accompanying an application for a Class A licence must be prepared by a professional engineer who is a member of the Association of Professional Engineers of the Province of Ontario, an Ontario land surveyor who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or by any other qualified person approved in writing by the Minister.

Idem

(5) The person who prepared a site plan must certify that the site plan was prepared by him or her. *New*.

Site plans for
Class B
licences

(6) The site plan accompanying an application for a Class B licence must show,

- (a) a key map showing the location of the site;

- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location and type of fences;
- (h) the location of tree screens and the species and types of the trees;
- (i) the location, dimensions and design of earth berms;
- (j) any significant natural and man made features;
- (k) the location and size of existing and proposed stock-piles of aggregate, topsoil, subsoil and overburden;
- (l) the existing and estimated final elevations of the site;
- (m) every existing and proposed entrance to and exit from the site;
- (n) any existing and proposed drainage facilities on the site and points of discharge to surface waters;
- (o) subject to available information, the location of water wells on and within 300 metres of the site;
- (p) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (q) the sequence and direction of operation of the pit or quarry;
- (r) the progressive rehabilitation and final rehabilitation plans;
- (s) the approximate scale; and

- (t) any other necessary information respecting the site.
R.S.O. 1980, c. 378, s. 4 (3), *amended*.

Signature

(7) Every site plan accompanying an application for a Class B licence must be in a style and manner acceptable to the Minister and must be signed by the applicant.

Plans
property of
the Crown

(8) Every site plan submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. *New*.

Report

9.—(1) The report accompanying an application for a Class A licence must be signed by the author and must provide information for evaluation by the Minister,

- (a) as to the suitability of the progressive rehabilitation and final rehabilitation plans having regard to the adjacent lands;
- (b) describing the environment that may be expected to be affected by the pit or quarry operation and any proposed remedial measures that are considered necessary;
- (c) describing the social and economic effects that may be expected as a result of the pit or quarry operation;
- (d) respecting the quality and quantity of the aggregate on the site;
- (e) as to the main haulage routes and proposed truck traffic to and from the site;
- (f) supplementing clause 8 (1) (o);
- (g) describing the location and size of existing and proposed stockpiles of aggregate, topsoil and subsoil;
- (h) respecting any planning and land use considerations;
- (i) setting out the reasons for any conclusions in the report; and
- (j) any other necessary information respecting the site.

Reports
property of
the Crown

(2) Every report submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. *New*.

10.—(1) An applicant for a licence must furnish information satisfactory to the Minister showing that the location of the land described in the site plan accompanying the application complies with all relevant zoning by-laws.

Compliance
with zoning
by-laws

(2) The Minister, if in doubt as to whether there is compliance with a zoning by-law, may require the applicant to refer the matter to the Divisional Court for a declaratory judgment on the matter. *New.*

Reference to
court

11.—(1) The Minister, upon being satisfied that an application for a licence and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information and comment. *New.*

Copies to
municipalities

(2) On the day that the Minister serves a copy of an application and the accompanying documents under subsection (1), the Minister shall serve the applicant with notice that the applicant must cause notice of the application in the prescribed form to be published in two successive issues of a newspaper or newspapers having general circulation in the locality in which the site is located. R.S.O. 1980, c. 378, s. 5 (2), *amended.*

Notice by
Minister

(3) The applicant shall notify the Minister when the publication of the notice has been completed. *New.*

Notice of
publication

(4) Any person may serve upon the Minister, within forty-five days after the second publication of the notice under subsection (2) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor. R.S.O. 1980, c. 378, s. 5 (1), *amended.*

Notice of
objection

(5) Upon receipt of a notice under subsection (4), the Minister shall provide the applicant with a copy thereof. *New.*

Idem

(6) Any person who has served notice under subsection (4) may, in addition, serve upon the Minister, within the period provided under subsection (4), a notice that the person requires a hearing of the matter before the Board.

Notice
requiring
hearing

(7) Upon receipt of a notice under subsection (6) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application

Reference to
Board for a
hearing

and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (3), *amended*.

Idem

(8) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), *amended*.

What Board
may consider
at one
hearing
1983, c. 1

(9) The Board may consider an application for an amendment to any relevant planning matter referred to it under the *Planning Act, 1983* and an application referred to it under subsection (7) or (8) at the same hearing. *New*.

Matters to be
considered by
Minister

12. The Minister in considering whether to issue or refuse a licence shall have regard to,

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by the municipality in which the site is located;
- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources;
- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of the aggregate on the site;
- (j) the recommendation of the Board under section 21, if such a recommendation is made; and
- (k) such other matters as are considered appropriate. R.S.O. 1980, c. 378, s. 6 (1), *amended*.

Issue of
licences

13.—(1) The Minister may issue a licence, subject to such conditions as the Minister considers necessary. R.S.O. 1980, c. 378, s. 6 (4), *amended*.

(2) Subject to section 20, the Minister may, at any time, add a condition to a licence or rescind or vary a condition of a licence. Changes of conditions

(3) A licensee and any municipality served with notice under clause 20 (4) (a) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed. No action until 30 days elapsed after notice by Minister

(4) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and if the licensee waives the right under subsection 20 (6) to require a hearing. *New.* Exception

(5) The Minister may, subject to subsection 69 (3), issue a licence only if the location of the pit or quarry complies with all relevant zoning by-laws. R.S.O. 1980, c. 378, s. 6 (2), *amended.* Zoning by-laws

(6) The Minister, on issuing a licence, shall serve a copy of it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.* Copies to municipalities

14.—(1) Every licensee shall pay to the Treasurer an annual licence fee, at a time specified by the Minister, in an amount equal to the application fee paid for the licence or calculated by multiplying the number of tonnes of aggregate removed from the site during the previous year by the prescribed rate per tonne, whichever is greater. Annual licence fees

(2) If the required licence fee is not paid, the Minister may revoke the licence. Revocation

(3) Subsections 20 (3), (5) and (6) do not apply to a licence revoked under subsection (2). No notice or hearing

(4) The prescribed percentage of the total of the annual licence fees collected shall be disbursed to such municipalities and in such amounts and manner as are prescribed. Disbursal of annual licence fees

(5) The prescribed percentage of the total of the annual licence fees collected may be set apart for the purposes mentioned in subsection 33 (2). Rehabilitation of abandoned pits and quarries

(6) Any unpaid annual licence fee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.* Unpaid licence fees

Duties of
licensees

15. Every licensee shall operate the licensee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the licence. R.S.O. 1980, c. 378, s. 3, s.4 (4), *part, amended*.

Amendment
of site plans

16.—(1) Subject to section 20, the Minister may at any time require a licensee to amend the site plan. *New*.

Idem

(2) A licensee may amend the site plan at any time with the approval in writing of the Minister. R.S.O. 1980, c. 378, s. 4 (4), *part, amended*.

Idem

(3) The Minister may require any amended site plan to be prepared and certified by a person qualified to prepare plans referred to in subsection 8 (4).

No action
until 30 days
elapsed after
notice by
Minister

(4) A licensee and any municipality served with notice under clause 20 (4) (b) or (c) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed.

Exception

(5) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and, in the case of a proposal to require the amendment of a site plan, if the licensee waives the right under subsection 20 (6) to require a hearing. *New*.

Inspection
and review

17.—(1) For the purpose of assessing the licensee's compliance with this Act, the regulations, the site plan and the conditions of the relevant licence, the Minister, at least once a year,

(a) shall cause each site to be inspected;

(b) shall cause a review of each site plan and the conditions of each licence; and

(c) shall consider all comments provided by the municipalities in which the site is located. R.S.O. 1980, c. 378, s. 7 (1), *amended*.

Written
report by
inspector

(2) An inspector, upon completing an inspection of a site, shall prepare a written report that shall include a description of any practice or procedure of the licensee or any matter related to the site that, in the opinion of the inspector, is a contravention of this Act, the regulations, the site plan or the conditions of the relevant licence.

(3) Any person may, during normal office hours of the Ministry, examine any report made under subsection (2) and, upon a request therefor and payment of a reasonable fee, such person shall be provided with a copy of the report or extracts therefrom.

Copy of
report

(4) For the purpose of each fourth review under subsection (1), the Minister shall, where applicable, request in writing that the council of the regional municipality or county, as the case may be, and the council of the local municipality in which each pit or quarry is located send to him or her, within forty-five days after receiving the request, their comments on each pit or quarry.

Municipal
comments
every four
years

(5) If a copy of a site plan is served upon the Minister under subsection 69 (5), each fourth review shall be calculated from the year in which service was made upon the Minister.
New.

Idem

18.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a licence. R.S.O. 1980, c. 378, s.14, *amended*.

Transfer of
licence

(2) When a licence is transferred, any sum in the rehabilitation security account of the transferor shall be transferred to an account in the name of the transferee and the right, title and interest in that sum vest in the transferee.

Transfer of
rehabilitation
security

(3) When a licence is transferred, the Minister shall, where applicable, serve a copy of the licence in the name of the transferee upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Copy to
municipalities

(4) On the death of an individual who holds a licence as a sole proprietor, the personal representative of the individual may continue to operate the pit or quarry for a period of one year as if the licence were issued to the personal representative.

Death of
licensee

(5) A personal representative who operates a pit or quarry under subsection (4) shall notify the Minister of the death of the licensee within one month thereafter. *New.*

Idem

19.—(1) Upon being satisfied that a licensee's annual licence fee and rehabilitation security, whenever payable, have been paid before the licensee applies to surrender a licence and that the rehabilitation has been performed in accordance with this Act, the regulations, the site plan and

Surrender of
licence

the conditions of the licence, the Minister may accept the surrender of the licence.

Disposition
of surplus
rehabilitation
moneys

(2) Any sum remaining in a former licensee's rehabilitation security account when the Minister accepts surrender of the licence shall be paid by the Treasurer to the former licensee.
New.

Refusal to
issue and
refusal to
consent to
transfer of
licence

20.—(1) The Minister may refuse to issue or refuse to consent to the transfer of a licence. R.S.O. 1980, c. 378, s. 6 (1), *part, amended.*

Revocation
of licences

(2) The Minister may revoke a licence for any contravention of this Act, the regulations, the site plan or the conditions of the licence. R.S.O. 1980, c. 378, s. 7 (2), *amended.*

Notice to
licensee

(3) If the Minister,

- (a) refuses to issue a licence and the application has not been referred to the Board for a hearing under section 11 or 60;
- (b) refuses to consent to the transfer of a licence; or
- (c) revokes a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the applicant or licensee.

Idem

(4) If the Minister,

- (a) proposes to add a condition to a licence after its issue or to rescind or vary a condition of a licence;
- (b) proposes to require the amendment of a site plan; or
- (c) proposes to approve the amendment of a site plan,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the licensee and where, in the opinion of the Minister, the matter is of importance and it is appropriate to do so, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Time of
taking effect

(5) Any action of the Minister under clause (3) (a), (b) or (c) is effective as soon as the required notice is served upon the applicant or licensee and, despite the fact that the appli-

cant or licensee requires a hearing by the Board, remains effective until the Minister takes action under subsection 21 (4).

(6) An applicant or licensee who is served with a notice under subsection (3) or (4) is entitled to a hearing by the Board if the applicant or licensee, within thirty days after being served, serves the Minister with a notice that a hearing is required. Entitlement to hearing

(7) The Minister, if served with a notice under subsection (6), shall, within thirty days after being served, refer the matter to the Board for a hearing. R.S.O. 1980, c. 378, s. 8, amended. Hearing

(8) If the Minister proposes an action referred to in clause (4) (a) or (b) and the applicant or licensee does not require a hearing under subsection (6), the Minister may carry out the proposal. New. Where no hearing

21.—(1) The Board shall hold a hearing on a matter referred to it under section 11, 20 or 60, and the applicant or licensee, the Minister and such other persons as the Board specifies shall be parties to the hearing. Hearing by Board

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the *Ontario Municipal Board Act*, except that section 94 of that Act does not apply. Procedure R.S.O. 1980, c. 347

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister setting out its findings and its recommendations as to the issue involved and shall send a copy of its report to each party to the hearing. Report of Board

(4) After considering the report of the Board, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision and the reasons therefor upon the other parties to the hearing and upon any municipality served under subsection 11 (1) or subsection 20 (4), as the case may be. Decision of Minister

(5) The decision of the Minister is final. R.S.O. 1980, c. 378, s. 9, amended. Decision final

22.—(1) The Minister may suspend a licence for any period of time, not exceeding six months, for any contravention of this Act, the regulations, the site plan or the conditions of the licence, effective as soon as the notice mentioned in Suspension of licence

subsection (2) is served upon the licensee. R.S.O. 1980, c. 378, s. 8 (4), *amended*.

Notice of
suspension

(2) Notice of suspension of a licence, including the reasons therefor, shall be served upon the licensee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Further
particulars of
notice

(3) The notice mentioned in subsection (2) shall inform the licensee of the period of the suspension, of the action the licensee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the licensee has complied with the notice to the satisfaction of the Minister, and that, if the licensee does not comply with the notice within the period of the suspension, the Minister may revoke the licence.

Revocation

(4) If a licensee whose licence has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the licence, in which case subsections 20 (3), (5) and (6) apply. *New*.

PART III

WAYSIDE PERMITS

Definition

23.—(1) In this section, “special project” means a temporary project that is of an urgent nature and for which no alternative source of aggregate under licence or permit is readily available in the vicinity.

Where
licence not
required

(2) Subsection 7 (1) does not apply to a public authority that has a wayside permit. *New*.

Application
for permit

(3) Any public authority that has, in a part of Ontario designated under section 5, a project of road construction or road maintenance or a special project that requires aggregate from outside the limits of the right of way of a highway or any person who has a contract with a public authority for such a project may apply to the Minister, on a form provided by the Minister, for a wayside permit to operate a pit or quarry. R.S.O. 1980, c. 378, s. 12 (1), *part, amended*.

Road
construction
and
maintenance

(4) For the purpose of subsection (3), a project is a project of road construction or road maintenance or a special project if the Minister considers it to be so.

Requirements
for permit

(5) Every application for a wayside permit shall be accompanied by five copies of the site plan referred to in section 25.

(6) The Minister may require an applicant for a wayside permit to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused.

Additional
information

(7) The Minister, upon being satisfied that an application for a wayside permit and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

Copies to
municipalities

24.—(1) Every applicant for a wayside permit shall, before the permit is issued, pay to the Treasurer a prescribed permit fee or a permit fee as calculated by multiplying the maximum number of tonnes that the permit authorizes by the prescribed rate per tonne of aggregate, whichever is the greater.

Permit fees

(2) If a wayside permit expires or is revoked, the permittee is entitled to a refund of any remaining balance of the permit fee calculated by multiplying the number of tonnes that the permit authorized that were not removed from the site by the prescribed rate per tonne of aggregate applicable at the date the permit was issued.

Refund of
fee

(3) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be disbursed to such municipalities and in such amounts and manner as are prescribed.

Disbursal of
permit fees

(4) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected may be set apart for the purposes mentioned in subsection 33 (2).

Rehabili-
tation of
abandoned
pits and
quarries

(5) Despite subsection (2), the prescribed permit fee is not refundable. *New.*

Non-
refundable
fee

25.—(1) The site plan accompanying an application for a wayside permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.

Site plans for
wayside
permits

(2) The site plan accompanying an application for a wayside permit must show,

Idem

(a) a key map showing the location of the site;

- (b) a general description of the site, including lot and concession lines, if any;
- (c) the public authority that is a party to the contract and the number of the project;
- (d) the location of the project;
- (e) the name and address of the owner of the site;
- (f) the shape, dimensions and hectarage of the site and the area to be excavated;
- (g) the existing and estimated final elevations of the site;
- (h) the use of the land and the location and use of the buildings and other structures within 150 metres of the site;
- (i) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (j) any significant natural and man made features;
- (k) every entrance to and exit from the site;
- (l) any existing and proposed drainage facilities on the site and points of discharge to surface waters;
- (m) subject to available information, the location of water wells on and within 300 metres of the site;
- (n) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (o) the sequence and direction of operation of the pit or quarry;
- (p) the final rehabilitation plan;
- (q) the approximate scale; and
- (r) any other necessary information respecting the site.

(3) Every site plan submitted with an application under this section becomes the property of the Crown upon the permit applied for being issued. *New.*

26. The Minister in considering whether to issue or refuse a wayside permit shall have regard to,

Matters to be considered by Minister

- (a) any comments provided by the municipalities in which the site is located;
 - (b) the effect of the operation of the pit or quarry on the environment;
 - (c) the estimated cost of the aggregate for the project as compared with that from any alternative source of supply;
 - (d) the proper management of the aggregate resources of the area;
 - (e) any previous wayside permits for the site;
 - (f) the rehabilitation of the site and its compatibility with adjacent land;
 - (g) any possible effects on ground and surface water resources;
 - (h) any proposed aesthetic improvements to the landscape; and
 - (i) such other matters as are considered appropriate.
- R.S.O. 1980, c. 378, s. 12 (2), *amended*.

27.—(1) The Minister may in his or her discretion issue a wayside permit subject to such conditions as are considered necessary and whether or not the location of the site complies with all relevant zoning by-laws. R.S.O. 1980, c. 378, s. 12 (3), *amended*.

Issue of permits

(2) No wayside permit shall be issued if the issuance will result in more than one wayside permit for one site at any time. *New*.

Limitation

28. The Minister, on issuing a wayside permit, shall, where applicable, serve a copy of the wayside permit upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New*.

Copies to municipalities

29. Every wayside permittee shall operate the permittee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the permit. R.S.O. 1980, c. 378, s. 3, s. 4 (4), *part, amended*.

Duties of permittees

Variation of
conditions

30.—(1) The Minister may, at any time, add a condition to a wayside permit or rescind or vary any condition of a wayside permit.

Notice to
municipalities

(2) The Minister, after taking any action under subsection (1), shall serve notice thereof, including reasons therefor, upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

Expiration of
permit

31. A wayside permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. R.S.O. 1980, c. 378, s. 12 (4), *amended.*

Suspension
or revocation

32.—(1) The Minister may, at any time, suspend or revoke a wayside permit for any contravention of this Act, the regulations, the site plan or the conditions of the permit, effective as soon as the notice mentioned in subsection (2) is served upon the permittee. R.S.O. 1980, c. 378, s. 12 (5), *amended.*

Notice to
municipalities

(2) Notice of suspension or revocation of a permit, including reasons therefor, shall be served upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Suspension—
duration

(3) The Minister may suspend a wayside permit for any period of time not exceeding six months.

Suspension—
further
particulars of
notice

(4) The notice mentioned in subsection (2) shall inform the permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit.

Suspension—
consequence
of no
remedial
action

(5) If a permittee whose permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the permit. *New.*

PART IV

ABANDONED PITS AND QUARRIES

33.—(1) The Minister may declare any pit or quarry for which a licence or wayside permit is not in force to be abandoned, Abandoned pits and quarries

- (a) after receiving the consent of the person assessed for the land on which the pit or quarry is located; and
- (b) where applicable, after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located.

(2) The Minister may disburse any portion of the fees set apart under subsections 14 (5) and 24 (4) for, Disbursal for rehabilitation

- (a) pre-program surveys or studies respecting the location, condition and rehabilitation of pits and quarries, for which a licence or wayside permit is not in force; and
- (b) the rehabilitation of abandoned pits and quarries. *New.*

PART V

AGGREGATE PERMITS

34.—(1) No person shall, except under the authority of and in accordance with an aggregate permit, operate a pit or quarry, Aggregate permits required

- (a) to excavate aggregate or topsoil that is on land the surface rights of which are the property of the Crown;
- (b) to excavate aggregate or topsoil that is the property of the Crown from land under water;
- (c) to excavate aggregate or topsoil that is the property of the Crown in a part of Ontario that is not designated under section 5; or
- (d) to excavate aggregate that is not the property of the Crown from land under water.

Idem (2) The excavation of aggregate or topsoil resulting from non-aggregate mineral extraction from a placer deposit is considered to be the operation of a pit for the purpose of subsection (1).

Idem (3) The removal from the site of stockpiled aggregate or topsoil that is the property of the Crown and was excavated under an aggregate permit is considered to be the operation of a pit for the purpose of subsection (1).

Applications for aggregate permits (4) Any person may apply to the Minister, on a form provided by the Minister, for an aggregate permit to operate a pit or quarry.

When a licence is required instead of an aggregate permit (5) A person who, except for this subsection, would apply for an aggregate permit shall apply for a licence if,

- (a) the site is in a part of Ontario designated under section 5;
- (b) the site is partly on land the surface rights of which are the property of the Crown and partly on land the surface rights of which are not the property of the Crown; and
- (c) the Minister directs the person in writing to apply for a licence. *New.*

Classes of aggregate permits **35.**—(1) A commercial aggregate permit authorizes the excavation of aggregate and topsoil to be used for resale or commercial purposes or in conjunction with a commercial undertaking.

Idem (2) A public authority aggregate permit authorizes a public authority to excavate aggregate and topsoil for use by the public authority but not for resale or commercial purposes.

Idem (3) A public authority aggregate permit authorizes a person who has a contract with a public authority to excavate aggregate and topsoil for use by that person in a project of the public authority but not for resale or commercial purposes.

Idem (4) A personal aggregate permit authorizes an individual or a group of individuals to excavate aggregate and topsoil for use by the individual or group of individuals but not for resale or commercial purposes. *New.*

Information required **36.**—(1) Every application for an aggregate permit must be accompanied by,

- (a) a site plan; and
- (b) such additional information in such form and manner as the Minister considers necessary.

(2) Until the information mentioned in subsection (1) is ^{Idem} furnished to the Minister's satisfaction, further consideration of the application may be refused.

(3) The Minister may waive the requirement for a site plan ^{Idem} for an application for a personal aggregate permit.

(4) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry that is entirely on dry land must show, ^{Site plans}

- (a) the location of the site;
- (b) existing conditions, including the shape, dimensions and area to be excavated, topography and land use on the site and within 150 metres of the site;
- (c) location, dimensions and use of any buildings or other structures existing or proposed to be erected on the site or existing within 150 metres of the site;
- (d) method and phasing of the operation;
- (e) estimated final elevations;
- (f) proposed progressive rehabilitation and final rehabilitation plans;
- (g) existing and proposed drainage and points of discharge to surface water;
- (h) location and size of existing and proposed stockpiles of aggregate, overburden and soil;
- (i) location and type of fences;
- (j) all existing and proposed entrances to and exits from the site;
- (k) location of the excavation setback limits; and
- (l) the approximate scale.

- Idem (5) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located entirely on land covered by water must show,
- (a) the location of the proposed operation and distance from the nearest shore and existing shoreline land uses that may be affected by the operation;
 - (b) as nearly as possible the extent and nature of the aggregate deposit to be excavated;
 - (c) the depth of the water covering the deposit; and
 - (d) the proposed method of operation.
- Idem (6) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located partly on dry land and partly on land covered by water must show the information required in subsection (4) in respect of the dry land and the information required in subsection (5) in respect of the land covered by water.
- Idem (7) Every site plan accompanying an application for an aggregate permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.
- Waiver, etc., by Minister (8) The Minister may require additional information or may waive, vary or reduce the information required under subsection (4), (5) or (6).
- Plans property of the Crown (9) Every site plan submitted with an application under this section becomes the property of the Crown upon the aggregate permit applied for being issued. *New.*
- Issue of aggregate permits **37.**—(1) The Minister may issue an aggregate permit for a fixed period of not more than five years, subject to such conditions as are considered necessary.
- Idem (2) The Minister, on being satisfied that an applicant for an aggregate permit requires the use of aggregate in conjunction with the operation of a producing mine and that use will likely extend beyond five years, may issue the permit for a term exceeding five years.
- Permit fees (3) Every applicant for an aggregate permit shall, before the permit is issued, pay to the Treasurer a permit fee as prescribed.
- Limitation (4) No aggregate permit shall be issued for sand and gravel where the sand and gravel has been included in a mining claim

as a placer deposit under the *Mining Act* until the non-aggregate mineral has been removed from the placer deposit. R.S.O. 1980, c. 268

(5) The Minister may at any time add a condition to an aggregate permit or rescind or vary any condition of such a permit. Changes in conditions

(6) Subject to sections 43 and 44, the Minister may at any time require an aggregate permittee to amend the site plan. Amendment of site plans

(7) An aggregate permittee may amend the site plan at any time with the approval in writing of the Minister. *New.* Idem

38. The Minister, if of the opinion that it is in the public interest, may authorize a public authority with a project that requires aggregate or topsoil or any person who has a contract with a public authority for such a project to excavate and remove undisturbed aggregate or topsoil in the ground that is the property of the Crown from a site that is subject to an aggregate permit. *New.* Public authority

39.—(1) Any person who holds a commercial or public authority aggregate permit may, before the expiry of the permit, apply to the Minister for another aggregate permit for the same site to come into effect upon the expiry of the previous permit. Renewal of permits

(2) If another aggregate permit is issued for the same site, the new permit may cover a smaller area than the previous permit covered and contain different conditions than did the previous permit and the Minister may require an amendment to the site plan that accompanied the previous permit. *New.* Change in area, conditions and site plan

40. Every aggregate permittee shall carry on the operation in accordance with this Act, the regulations, the site plan, if any, and the conditions of the permit. *New.* Duties of permittees

41.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a commercial aggregate permit. Transfer of permits

(2) A personal or public authority aggregate permit is not transferable. *New.* Idem

42. The Minister may,

- (a) refuse to issue an aggregate permit under section 37 or 39; Revocation, refusal to issue or transfer

- (b) refuse to consent to the transfer of an aggregate permit; or
- (c) revoke an aggregate permit,

if,

- (d) the Minister considers the issuance, transfer or continuation of the permit to be contrary to the public interest;
- (e) in the opinion of the Minister, a substantial amount of aggregate or topsoil has not been removed from the site under the permit during the previous twelve months; or
- (f) the permittee has contravened any provision of this Act, the regulations, a site plan or any of the conditions to which the permit is subject. *New.*

Notice to
applicant or
permittee

43.—(1) If the Minister,

- (a) refuses to issue an aggregate permit to excavate aggregate or topsoil that is not the property of the Crown;
- (b) revokes an aggregate permit;
- (c) refuses to issue another aggregate permit;
- (d) proposes to issue another aggregate permit for a smaller area or with different conditions or site plan from the previous permit;
- (e) proposes to add, rescind or vary a condition of an aggregate permit; or
- (f) proposes to require the amendment of a site plan,

the Minister shall serve forthwith notice thereof including the reasons therefor upon the applicant or permittee. R.S.O. 1980, c. 268, s. 119 (1), *part, amended.*

Time of
taking effect

(2) Any action of the Minister under clause (1) (a), (b) or (c) is effective as soon as the notice is served upon the applicant or permittee and, despite the fact that the applicant or permittee requires a hearing by the Commissioner, remains effective until the Minister takes action under subsection 44 (5).

(3) The Minister shall take no action proposed under clause (1) (d), (e) or (f) until the thirty days referred to in subsection 44 (1) have elapsed. No action until 30 days elapsed

(4) The Minister may carry out a proposal under clause (1) (d), (e) or (f) if the proposal is not referred to the Commissioner. *New.* Where no hearing

44.—(1) An applicant or aggregate permittee who is served with a notice mentioned in subsection 43 (1) is entitled to a hearing by the Commissioner if the applicant or permittee, within thirty days after being served, serves the Minister with a notice that a hearing is required. Entitlement to hearing

(2) The Minister, if served with a notice under subsection (1), shall, within thirty days after being served, refer the matter to the Commissioner for a hearing. Hearing

(3) The Commissioner shall hold a hearing on a matter referred under subsection (2) and, after the hearing, make a recommendation to the Minister. Recommendation by Commissioner

(4) The Commissioner shall specify the parties to the hearing. *R.S.O. 1980, c. 268, s. 119 (2, 4), amended.* Idem

(5) After considering the recommendation of the Commissioner, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision on the parties to the hearing. Decision by Minister

(6) The decision of the Minister is final. *New.* Decision final

45.—(1) The Minister may suspend an aggregate permit for any period of time not exceeding six months, Suspension of permit

(a) for any contravention of this Act, the regulations, the site plan or the conditions of the permit; or

(b) if, in the opinion of the Minister, the continuation of the operation under the permit will likely cause damage to property or is contrary to the public interest. *R.S.O. 1980, c. 39, s. 4 (7), part, amended.*

(2) The suspension shall be effective as soon as the required notice is served upon the permittee. *New.* Time of taking effect

(3) Notice of a suspension of an aggregate permit, including the reasons therefor, shall be served upon the permittee. *R.S.O. 1980, c. 39, s. 4 (7), part, amended.* Notice of suspension

Further
particulars of
notice

(4) The notice of suspension shall inform the aggregate permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit.

Revocation

(5) If a permittee whose aggregate permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the aggregate permit, in which case sections 43 and 44 apply. *New.*

Royalties

46.—(1) The Minister shall determine the royalty per tonne that each aggregate permittee removing from the site aggregate or topsoil that is property of the Crown must pay, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the aggregate or topsoil and its intended use.

Returns and
payment

(2) Every aggregate permittee shall make a return, when required by the Minister, showing the quantity of material removed from the site and, at the same time, enclose the required royalty payment payable to the Treasurer.

Security or
deposit

(3) The Minister may require an aggregate permittee to give, in an amount determined by the Minister, security of the prescribed kind or a deposit for the payment of any royalty that is due or that may become due under subsection (1).

Recovery of
royalties in
default

(4) The amount of a default in the payment of a royalty under this section may be recovered by the Crown from any security given under subsection (3) or as a debt due to the Crown in any court of competent jurisdiction.

Waiver of
royalty

(5) The Minister may waive or vary any royalty payable.

Crown does
not pay
royalty

(6) No royalty is payable by the Crown, an agent of the Crown or a person who has a contract with the Crown to excavate aggregate or topsoil for use in a project of the Crown.

Licensee
removing
Crown
aggregate or
topsoil pays
royalties

(7) Subsections (1) to (6) apply to a licensee who removes from the site aggregate or topsoil that is the property of the Crown as if the references to "aggregate permittee" were references to "licensee". *New.*

PART VI

REHABILITATION

47. This Part does not apply to a pit or quarry or part thereof that is covered by water that is not the result of excavation of aggregate below the water table. *New.*

Application
of Part

48.—(1) Every licensee and every permittee shall perform progressive rehabilitation and final rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister.

Duty to
rehabilitate
site

(2) The Minister, upon being satisfied that a licensee, a permittee or former permittee has not performed adequate progressive rehabilitation on the site, may order the licensee, permittee or former permittee, as the case may be, to perform within a specified period of time such progressive rehabilitation as the Minister considers necessary and the licensee, permittee or former permittee shall comply with the order. *New.*

Minister's
order
requiring
progressive
rehabilitation

49. The Minister may waive or reduce the rehabilitation requirements, in respect of excavation of aggregate that is the property of the Crown, if, in the opinion of the Minister, to do so is not contrary to the public interest. *New.*

Waiver

50.—(1) Every licensee shall pay to the Treasurer security for the rehabilitation of the site at the prescribed time and in the prescribed amount and manner. R.S.O. 1980, c. 378, s. 11 (1), *amended.*

Rehabili-
tation
security
payments by
licensees

(2) Any security for the rehabilitation of the site not paid by a licensee or former licensee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.*

Recovery of
amount not
paid

51.—(1) Every person who applies for a permit must, before the permit is issued, pay to the Treasurer security for the rehabilitation of the site in the prescribed amount and manner.

Rehabili-
tation
security
payments by
permittees

(2) Despite subsection (1), the Minister may, in the case of an aggregate permit, waive the payment, in advance, of the security in which event security shall be paid at the prescribed time.

Waiver

Idem	(3) The Minister may waive any security required under this section if the Minister does not consider it to be necessary or in the public interest.
Recovery of amount not paid	(4) Any security for the rehabilitation of a site not paid by a permittee or former permittee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. <i>New.</i>
Rehabilitation security accounts	52. —(1) Sums paid by a licensee or permittee under section 50 or 51 shall be held in an account in that person's name and shall be paid out in accordance with the regulations.
Interest payable	(2) Sums paid by a licensee or permittee under section 50 or 51 earn interest at the prescribed rate.
Interest deemed security	(3) Interest earned under subsection (2) is part of the rehabilitation security. <i>New.</i>
Partial refunds	53. Every licensee or aggregate permittee who submits proof, satisfactory to the Minister, of progressive rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund out of the rehabilitation security account in accordance with the regulations. <i>New.</i>
Refunds when rehabilitation fully performed	54. Every licensee, permittee, former licensee or former permittee who has submitted proof, satisfactory to the Minister, of final rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund of the total sum to that person's credit in the rehabilitation security account. <i>New.</i>
Entry upon site for rehabilitation	55. —(1) A licensee, permittee, former licensee or former permittee who does not, without this subsection, have the right to enter upon a site not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit, may enter upon the site and perform such rehabilitation as the Minister considers necessary.
Refunds	(2) Rehabilitation performed under subsection (1) is final rehabilitation for the purpose of section 54. <i>New.</i>
When rehabilitation not performed	56. —(1) The Minister or a person authorized in writing by the Minister may enter upon a site in respect of which a licence or permit was revoked or expired and not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister and may perform such rehabilitation as the Minister considers necessary.

(2) The cost of rehabilitation performed under subsection (1) is a debt due to the Crown by the former licensee or former permittee and shall be paid by the Treasurer out of the former licensee's or former permittee's rehabilitation security account. R.S.O. 1980, c. 378, s. 11, *amended*. Recovery of cost

(3) Any sum remaining to the credit of the former licensee or former permittee in that person's rehabilitation security account after the cost of rehabilitation performed under subsection (1) has been paid out shall be paid by the Treasurer to that person. Disposition of surplus

(4) If a sum to the credit of a former licensee or former permittee in the rehabilitation security account is insufficient to defray the cost of rehabilitation, the amount of the deficiency is a debt due to the Crown by the former licensee or former permittee and is recoverable by the Crown in any court of competent jurisdiction. *New*. Recovery of deficiency

PART VII

OFFENCES AND PENALTIES

57.—(1) Every person who operates a pit or quarry without a licence or permit is guilty of an offence. R.S.O. 1980, c. 378, s. 4 (1), *amended*. No operation of pit or quarry without licence or permit

(2) Every licensee or permittee who contravenes the site plan or a condition of the licence or permit is guilty of an offence. Contravention of licence, permit or site plan

(3) Every person who contravenes any provision of this Act or the regulations is guilty of an offence. R.S.O. 1980, c. 378, s. 18 (1), *part, amended*. Contravention of Act or regulations

(4) Every person who hinders or obstructs an inspector in the performance of the inspector's duties or furnishes the inspector with false information or refuses to furnish the inspector with information is guilty of an offence. R.S.O. 1980, c. 378, s. 13 (2), *amended*. Obstruction of inspectors

58. Every person who commits an offence under section 57 is liable on conviction to a fine of not less than \$500 and not more than \$5,000 for each day on which the offence occurs or continues. R.S.O. 1980, c. 378, s. 18 (1), *amended*. Penalty

59. In any prosecution under this Act, the court may, in addition to imposing a fine under section 58, make such order Order for compliance

as the court considers proper to obtain compliance with this Act, the regulations, the site plan or any condition of a licence or permit. *New.*

PART VIII

TERRITORY WITHOUT MUNICIPAL ORGANIZATION

Notice of application for licence in area without municipal organization

60.—(1) The Minister, upon being satisfied that an application for a licence for a pit or quarry located in territory without municipal organization and the documents accompanying it comply with this Act and the regulations, shall serve the applicant with notice that the applicant must cause notice of the application in the prescribed form to be published in two successive issues of a newspaper having general circulation in the locality in which the site is located.

Notice of publication

(2) The applicant shall notify the Minister when the publication of the notice has been completed. *New.*

Notice of objection

(3) Any person may serve the Minister, within forty-five days after the second publication under subsection (1) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor.

Notice requiring hearing

(4) Any person serving a notice under subsection (3) may, in addition, serve the Minister within the period provided under subsection (3) a notice that the person requires a hearing of the matter before the Board.

Reference to Board for a hearing

(5) Upon receipt of a notice under subsection (4) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (1, 3), *amended.*

Idem

(6) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), *amended.*

What Board may consider at one hearing
1983, c. 1

(7) The Board may consider an application referred to it under section 34 of the *Planning Act, 1983*, and an application referred to it under this section at the same hearing. *New.*

Publication of notice

61.—(1) The Minister shall, in addition to any notice that is required to be served, publish notice of a proposed action under subsection 13 (2), subsection 16 (1) or (2) or subsection 68 (1) or (2) in respect of a site located in territory without

municipal organization in two successive issues of a newspaper having general circulation in the locality in which the site is located.

(2) The Minister may dispense with publication of the notice under subsection (1) if the Minister does not consider the proposal to be a significant matter. Exception

(3) Any person may provide the Minister with comments at any time up to thirty days after the second publication under subsection (1) and the Minister may take no action until the thirty days have elapsed. Comments

(4) Any notice required to be given by the Minister to a municipality for the purpose of information only may, in respect of a site located in territory without municipal organization, be given to such persons and in such manner as the Minister in his or her discretion directs. *New.* Notice for information only

PART IX

MISCELLANEOUS

62. Every licensee or permittee shall keep detailed records of the operation for which the licence or permit has been issued, including copies of all documents relating to sales and shipments, and shall make available for inspection by any person authorized for the purpose of this Act all the accounts, records and documents related to the operation. R.S.O. 1980, c. 268, s. 121, *amended.* Record keeping

63.—(1) If it appears to the Minister that any person is not complying or does not intend to comply with this Act or the regulations or a site plan or a condition of a licence or permit, despite the imposition of any penalty for non-compliance, the Minister may apply to a judge of the High Court for an order directing the person to comply. Restraining orders

(2) Upon an application under subsection (1), the judge may make such order as he or she considers proper. Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2). R.S.O. 1980, c. 378, s. 15, *amended.* Appeal

64.—(1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address for service appearing on the records of the Ministry. Service of notices

- Idem (2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, and for cause beyond that person's control, receive the notice until a later date. R.S.O. 1980, c. 378, s. 16, *amended*.
- Joint effect **65.** This Act and the regulations are in addition to and not in substitution for Regulation 694 of Revised Regulations of Ontario, 1980, made under the *Occupational Health and Safety Act* or any provisions substituted therefor at any time.
R.S.O. 1980, c. 321
- Act overrides municipal by-laws, etc. **66.**—(1) In the event that this Act and the regulations and a municipal by-law, official plan or development agreement treat the same subject-matter in different ways, this Act and the regulations prevail and the by-law, official plan or development agreement is inoperative to the extent that it conflicts with this Act and the regulations. R.S.O. 1980, c. 378, s. 17 (2), *amended*.
- Retroactive effect (2) Subsection (1) applies whether the by-law, official plan or development agreement comes into force before or after this Act.
- Power to pass by-laws restricted
R.S.O. 1980, c. 302 (3) Every municipal by-law passed under the *Municipal Act*, except a by-law passed under paragraph 137 of section 210, that purports to prohibit the carrying on or operating of a pit or quarry or wayside pit or quarry is inoperative to the extent that it conflicts with this Act and the regulations.
- Idem (4) Subsection (3) applies to by-laws passed before or after this Act comes into force. *New*.
- Regulations **67.** The Lieutenant Governor in Council may make regulations,
- (a) respecting the management of the aggregate resources of Ontario;
 - (b) prescribing material as aggregate;
 - (c) prescribing duties of inspectors;
 - (d) prescribing or providing for the calculation of fees and providing for the payment thereof;
 - (e) prescribing a rate per tonne of aggregate for the purpose of calculating fees;

- (f) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that shall be disbursed to municipalities, prescribing the amounts and manner of such disbursements and prescribing the municipalities to which such disbursements shall be made;
- (g) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that may be set apart and disbursed for the purposes mentioned in subsection 33 (2);
- (h) respecting the control and operation of pits and quarries;
- (i) prescribing the minimum royalty for aggregate that is the property of the Crown and providing for the payment thereof;
- (j) prescribing kinds of security for the purposes of subsection 46 (3);
- (k) governing the rehabilitation of pits and quarries;
- (l) respecting the form, terms and conditions and time of payment of rehabilitation security, prescribing a rate per tonne of aggregate for the purpose of calculating rehabilitation security, prescribing maximum and minimum amounts per hectare of rehabilitation security for aggregate operations, prescribing the rate of interest payable thereon and providing for refunds from rehabilitation security accounts and royalty accounts;
- (m) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;
- (n) prescribing forms for the purposes of this Act and providing for their use;
- (o) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act.
R.S.O. 1980, c. 378, s. 19 (1), *amended*.

68.—(1) The Minister, if of the opinion that it is not contrary to the public interest, may, in writing, relieve any licensee or permittee from compliance in whole or in part with the regulations.

Relief from
compliance

Idem (2) The relief granted under subsection (1) is subject to such conditions as are set out in the instrument giving it. R.S.O. 1980, c. 378, s. 19 (2), *amended*.

Idem (3) The Minister may at any time rescind or vary any relief granted under subsection (1) upon written notice thereof to the licensee or permittee.

Notice to municipality (4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed relief under subsection (1), including reasons therefor, upon the clerk of the local municipality in which the site is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment.

Delay in relief (5) The Minister may not grant relief until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. *New*.

Pits and quarries under licence or permit under R.S.O. 1980, c. 378 **69.—**(1) Despite section 77, the *Pits and Quarries Control Act* and the regulations thereunder continue to apply to,

(a) every pit or quarry for which an operator is licensed under that Act for six months after this Act comes into force except where the licence expires under subsection (2) or (3); and

(b) every pit or quarry for which a wayside permit exists under that Act for the remaining term of the permit.

Application for a licence under this Act R.S.O. 1980, c. 378 (2) During the first three months after this Act comes into force an application for replacing a licence for the identical site under this Act accompanied by the prescribed fee may be made by a licensee under the *Pits and Quarries Control Act* in respect of that licensee's pit or quarry and, if an application is not so made, the licence under the *Pits and Quarries Control Act* expires at the end of the three-month period.

Licence to be issued (3) Within the six-month period mentioned in subsection (1), if the applicant has paid fees and deposited rehabilitation security as required under the *Pits and Quarries Control Act*, the Minister shall issue a licence under this Act in respect of every application under subsection (2) even if the requirements of section 8 have not been met and whether or not all relevant zoning by-laws are complied with.

Idem (4) As soon as a licence is issued under this Act for a pit or quarry to which this section applies, the licence under the

Pits and Quarries Control Act expires and that Act and the regulations thereunder cease to apply, but the site plan under that Act continues in effect until superseded by a site plan under this Act.

R.S.O. 1980,
c. 378

(5) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.

When new
site plan
requirements
to be met

(6) Clauses 7 (3) (a), (b) and (c), sections 9 and 10, subsections 11 (2) to (9) and section 12 do not apply to applications made under subsection (2) of this section.

s. 7 (3) (a-c),
s. 9, s. 10,
s. 11 (2-9),
s. 12 do not
apply

(7) Despite section 77,

Permits and
licences
under

(a) the *Mining Act* and the regulations thereunder continue to apply to every pit and quarry for which a permit exists under that Act; and

R.S.O. 1980,
cc. 268, 39

(b) the *Beach Protection Act* and the regulations thereunder continue to apply to every pit or quarry for which an operator is licensed under that Act,

for the remaining term of the permit or licence, as the case may be, or for twelve months after this Act comes into force, whichever occurs first.

(8) Every permit or licence issued under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* subsisting on the day that this Act comes into force shall be deemed to be a permit or licence, as the case may be, issued under this Act.

Transition re
R.S.O. 1980,
cc. 378, 268,
39

(9) Every licence issued under the *Pits and Quarries Control Act* by the Minister to reflect a change in operator and not revoked before the day this Act comes into force shall be deemed to be subsisting for the purpose of subsection (8) despite the decision of any court.

Licences
ruled invalid
by court

(10) Every permit or licence referred to in subsection (7) that, on its terms, does not expire within twelve months after this Act comes into force expires with the twelfth month after this Act comes into force.

Expiry of
licences

(11) If a quarry permit under the *Mining Act* or a licence under the *Beach Protection Act* expires because of the application of subsection (10), the permittee or licensee may apply

Application
where permit
or licence
under
R.S.O. 1980,
cc. 268, 39
to expire

for a replacing aggregate permit, for the identical site, under this Act by an application accompanied by the prescribed fee submitted not later than ten months after this Act comes into force.

Permit to be issued

(12) The Minister shall issue an aggregate permit in respect of every application under subsection (11) if the applicant has paid all fees, royalties and security required by this Act under which the permit or licence was issued.

Condition

(13) The Minister may attach such conditions as the Minister considers advisable to any licence issued under subsection (3) or any permit issued under subsection (12).

Site plan

(14) The site plan accompanying an application under subsection (12) may be a duplicate of the site plan that accompanied the original application unless the Minister directs otherwise.

Rehabilitation security
R.S.O. 1980,
cc. 378, 268,
39

(15) All fees, royalties, security and interest on deposit or payable under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* in respect of a licence or aggregate permit replaced under this section shall be deemed to be on deposit or payable as provided under this Act.

Credit for rehabilitation

(16) Any rehabilitation that has been carried out in respect of a pit or quarry under a permit or licence under an Act referred to in this section and for which the permittee or licensee has not received credit under that Act before this Act comes into force shall be deemed to be rehabilitation performed for the purpose of this Act. *New.*

Non-application of ss. 10, 11 (2-9) and waiver of s. 9

70.—(1) Section 10 and subsections 11 (2) to (9) do not apply to an application for a licence in respect of a site for which a licence under the *Pits and Quarries Control Act* expired under subsection 69 (2) if the application is made after the three-month period mentioned in subsection 69 (2) but within the two-year period after this Act comes into force.

Waiver

(2) The Minister may waive the requirement for a report under section 9 for any application under subsection (1). *New.*

Act applies to pits and quarries in newly designated areas

71.—(1) This Act and the regulations apply to every established pit and quarry in a part of Ontario designated under subsection 5 (2).

(2) The Minister may, in his or her absolute discretion, determine, in cases where doubt exists, whether a pit or quarry is an established pit or quarry.

Determination by Minister in cases of doubt

(3) Despite subsection 57 (1), a person with an established pit or quarry in a part of Ontario designated under subsection 5 (2) may continue to operate the pit or quarry without a licence or permit until the six-month period next following the date of the designation expires.

Right to operate for limited period without licence or permit

(4) Despite subsection 57 (1), a person who applies for a licence during the six-month period next following the day of the designation under subsection 5 (2), and,

Right to operate for limited period without licence

(a) who is not required by the Minister to refer a matter to the Divisional Court under section 10 may operate an established pit or quarry without a licence subsequent to such six-month period until the licence is either issued or refused or the twelve-month period next following the day of the designation expires, whichever occurs first; or

(b) who is required by the Minister to refer a matter to the Divisional Court under section 10 may operate an established pit or quarry until the licence is either issued or refused.

(5) The Minister, if satisfied that the application under subsection (4) is in respect of an established pit or quarry and that the location of the land on which the pit or quarry is situated complies with all relevant zoning by-laws, shall issue a licence under this Act to the applicant even if the requirements of section 8 have not been met.

Licence to be issued

(6) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.

When new site plan requirements to be met

(7) Despite subsection (1), clauses 7 (3) (a), (b) and (c), section 9, subsections 11 (2) to (9) and section 12 do not apply to applications made under subsection (4).

s. 7 (3) (a-c), s. 9, s. 11 (2-9), s. 12 do not apply

(8) Despite subsection (1), subsections 11 (2) to (9) do not apply to an application for a licence for an established pit or quarry made during the two-year period next following the day of the designation.

Non-application of s. 11 (2-9) and waiver of s. 9

Waiver

(9) The Minister may waive the requirement for a report under section 9 for any application under subsection (8).

Person
deemed
licensee from
date of
designation

(10) For the purposes of this Act and the regulations, every person who has been issued a licence for an established pit or quarry in a part of Ontario that is designated under subsection 5 (2) shall be deemed to be a licensee from the date of the designation. *New.*

Application
under
R.S.O. 1980,
cc. 378, 268,
39 deemed
application
under this
Act

72.—(1) If an application for a licence or permit to operate a pit or quarry has been made under and complies with the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* or a predecessor thereof but no licence or permit has been issued or refused by the Minister under one of those Acts before this Act comes into force, the application shall be deemed to be an application made under this Act.

Applicant
must comply
with this Act

(2) The applicant referred to in subsection (1) shall comply under this Act with the requirements of,

- (a) section 7 within six months after this Act comes into force;
- (b) subsections 23 (3), (5) and (6) and subsection 24 (1) within six months after this Act comes into force; or
- (c) section 36 within ten months after this Act comes into force.

Minister may
refuse to
consider
application

(3) If in the opinion of the Minister the applicant fails to comply with the requirements of subsection (2), the Minister may refuse further consideration of the application.

Hearing
before the
Board

R.S.O. 1980,
cc. 378, 268,
39

(4) If an applicant complies with the requirements of subsection (2), a hearing pending before the Board or Commissioner or in respect of which the Board or Commissioner has not reported to the Minister respecting a matter referred to the Board or Commissioner under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act*, as the case may be, shall be deemed to be a hearing for the purposes of this Act. *New.*

Quarrying
near Niagara
escarpment

73.—(1) Subject to subsection (2), despite the fact that a licence or permit has been issued, no person shall operate a quarry nearer to the natural edge of the Niagara escarpment than 200 metres measured horizontally.

Idem

(2) No person holding a licence for a quarry under the *Pits and Quarries Control Act* when this Act comes into force and

who is issued a licence for the quarry under this Act shall operate the quarry nearer to the natural edge of the Niagara escarpment than ninety metres measured horizontally.

(3) For the purposes of subsection (1) or (2), the natural edge of the Niagara escarpment is the natural edge determined by the Minister. *New.* Determination of natural edge

74. For the purposes of section 27 and subsection 69 (3), if the location of a pit or quarry for which a licence or wayside permit has been issued contravenes a zoning by-law, the licence or permit prevails and the by-law does not apply to the site. *New.* Licence or permit prevails

75. For the purposes of this Act, aggregate that is not removed from the site as aggregate but is used on the site, Aggregate deemed removed

- (a) in the manufacture of cement, concrete blocks, concrete pipes, bricks, asphalt, concrete mix or any other product; or
- (b) in the construction or maintenance of a structure or road, other than a road constructed primarily for the operation of a pit or quarry,

shall be deemed to have been removed from the site. *New.*

76.—(1) Every quarry permit issued under Part VII of the *Mining Act* and every licence issued under the *Beach Protection Act* that is subsisting when this Act comes into force continues in force until its expiry date or for a further twelve months, whichever occurs first. Permits and licences under R.S.O. 1980, cc. 268, 39

(2) For the purpose of section 34, the holder of a permit or licence referred to in subsection (1) shall be deemed to be an aggregate permittee. *New.* Idem

77. The *Pits and Quarries Control Act*, being chapter 378 of the Revised Statutes of Ontario, 1980, the *Beach Protection Act*, being chapter 39 of the Revised Statutes of Ontario, 1980, and Part VII of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, are repealed. Repeals

78. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

79. The short title of this Act is the *Aggregate Resources Act*, 1989. Short title

Bill 170

An Act to revise several Acts related to Aggregate Resources

The Hon. V. Kerrio
Minister of Natural Resources



1st Reading June 27th, 1988
2nd Reading March 1st, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

The Bill is the result of experience gained through administration of the *Pits and Quarries Control Act*, the *Mining Act* and the *Beach Protection Act*, from the report of the Ontario Mineral Aggregate Working Party and various representations on Bill 127 in 1980.

The new Act has four purposes:

1. To provide for the management of the aggregate resources of Ontario.
2. To control and regulate aggregate operations on Crown and private land.
3. To require the rehabilitation of land from which aggregate has been excavated.
4. To minimize adverse impact on the environment in respect of aggregate operations.

Bill 170

1989

**An Act to revise
several Acts related to Aggregate Resources**

TABLE OF CONTENTS

Section

1. Definitions

**PART I
GENERAL**

- 2. Purposes of Act
- 3. Administration of Act
- 4. Designation of inspectors
- 5. Application
- 6. Act binds the Crown

**PART II
LICENCES**

- 7. Licences required
- 8. Site plans for licences
- 9. Report
- 10. Zoning by-laws
- 11. Copies to municipalities
- 12. Matters to be considered by Minister
- 13. Issue of licences
- 14. Annual licence fees
- 15. Duties of licensees
- 16. Amendment of site plans
- 17. Inspection and review
- 18. Transfer of licence
- 19. Surrender of licence
- 20. Refusal to issue and refusal to consent to transfer of licence
- 21. Hearing by Board
- 22. Suspension of licence

**PART III
WAYSIDE PERMITS**

- 23. Application for wayside permit
- 24. Permit fees
- 25. Site plans for wayside permits
- 26. Matters to be considered by Minister
- 27. Issue of permits
- 28. Copies to municipalities
- 29. Duties of permittees

Section

- 30. Permit subject to conditions
- 31. Expiration of permit
- 32. Suspension or revocation

**PART IV
ABANDONED PITS AND
QUARRIES**

- 33. Abandoned pits and quarries

**PART V
AGGREGATE PERMITS**

- 34. Aggregate permits required
- 35. Classes of aggregate permits
- 36. Information required
- 37. Issue of aggregate permits
- 38. Public authority
- 39. Renewal of permits
- 40. Duties of permittees
- 41. Transfer of permits
- 42. Revocation, refusal to issue or transfer
- 43. Notice to applicant or permittee
- 44. Entitlement to hearing
- 45. Suspension of permit
- 46. Royalties

**PART VI
REHABILITATION**

- 47. Application of Part
- 48. Duty to rehabilitate site
- 49. Waiver
- 50. Rehabilitation security payments by licensees
- 51. Rehabilitation security payments by permittees
- 52. Rehabilitation security accounts
- 53. Partial refunds
- 54. Refunds when rehabilitation fully performed
- 55. Entry upon site for rehabilitation

“excavate” includes the preparation of land for excavation and removal of hills, sand dunes, knolls, stones and rocks other than metallic ores from the general surface of the ground;

“final rehabilitation” means rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit performed after the excavation of aggregate and the progressive rehabilitation, if any, have been completed;

“highway” has the same meaning as in the *Public Transportation and Highway Improvement Act* and includes an unopened road allowance; R.S.O. 1980,
c. 421

“inspector” means any employee of the Ministry designated in writing by the Minister as an inspector for the purposes of this Act;

“land under water” means the bed, bank, beach, shore, bar, flat or water of or in any lake, river, stream or other waterbody or adjoining any channel or entrance thereto but does not include a waterbody resulting from excavation of aggregate below the water table;

“licence” means a licence for a pit or quarry issued under this Act;

“licensee” means a person who holds a licence;

“management” means the provision for the identification, orderly development and protection of the aggregate resources of Ontario;

“Minister” means the Minister of Natural Resources;

“Ministry” means the Ministry of Natural Resources;

“operate”, when used in relation to a pit or quarry, means “work” and includes all activities associated with a pit or quarry that are carried out on the site;

“permit” means an aggregate permit or a wayside permit issued under this Act;

“permittee” means a person who holds a permit;

“person” includes a public authority;

“pit” means land or land under water from which unconsolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

“prescribed” means prescribed by the regulations;

“progressive rehabilitation” means rehabilitation done sequentially, within a reasonable time, in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit during the period that aggregate is being excavated;

R.S.O. 1980,
c. 303

“public authority” means the Crown, a municipality, a local board as defined in the *Municipal Affairs Act* or a local roads board;

“quarry” means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

“regional municipality” includes a district municipality and The Municipality of Metropolitan Toronto;

“regulations” means the regulations made under this Act;

“rehabilitate” means to treat land from which aggregate has been excavated so that the use or condition of the land,

(a) is restored to its former use or condition, or

(b) is changed to another use or condition that is or will be compatible with the use of adjacent land;



“road” has the same meaning as highway;



“site” means the land or land under water to which a licence or permit or an application therefor relates;

“Treasurer” means the Treasurer of Ontario and Minister of Economics;

“zoning by-law” means a by-law passed under section 34 or 37 of the *Planning Act, 1983* or any predecessor thereof and includes an order made under clause 46 (1) (a) of the

1983, c. 1

Planning Act, 1983 or any predecessor thereof and a land use regulation made under subsection 4 (1) of the *Parkway Belt Planning and Development Act* or any predecessor thereof and includes zoning control by a development permit issued under the *Niagara Escarpment Planning and Development Act*. R.S.O. 1980, c. 378, s. 1, amended.

1983, c. 1
R.S.O. 1980,
c. 368

R.S.O. 1980,
c. 316

(2) The Minister may, in his or her absolute discretion, determine in cases where doubt exists, whether an excavation site is a pit or quarry.

Determi-
nation by
Minister of
pit or quarry
in cases of
doubt

(3) The Minister, if of the opinion that the primary purpose of an excavation is not for the production of aggregate, may in his or her absolute discretion by order declare that the land or land under water on which the excavation is situate is not a pit or quarry for the purposes of this Act.

Order that
an excavation
is not a pit
or quarry

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed order under subsection (3), including reasons therefor, upon the clerk of the local municipality in which the excavation is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment.

Notice to
municipality

(5) The Minister may not issue the order until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. *New.*

Delay in
relief

PART I

GENERAL

2. The purposes of this Act are,

Purposes of
Act

- (a) to provide for the management of the aggregate resources of Ontario;
- (b) to control and regulate aggregate operations on Crown and private lands;
- (c) to require the rehabilitation of land from which aggregate has been excavated; and
- (d) to minimize adverse impact on the environment in respect of aggregate operations. *New.*

3.—(1) The Minister is responsible for the administration of this Act and the regulations.

Adminis-
tration of
Act

Idem

(2) In administering this Act, the Minister may,

- (a) initiate research related to technical matters pertaining to,
 - (i) the aggregate industry, including the transportation of aggregate and the rehabilitation of pits and quarries,
 - (ii) underground mining of aggregate, and
 - (iii) aggregate excavation from beneath water;
- (b) initiate studies of geological deposits that may yield aggregate of commercial qualities and quantities;
- (c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;
- (d) collect, analyze and publish statistics related to the aggregate industry;
- (e) initiate studies related to the uses of aggregate and the economics and operations of the aggregate industry;
- (f) advise ministries and municipalities on planning matters related to aggregate;
- (g) initiate studies related to abandoned pits and quarries;
- (h) initiate studies on environmental and social matters related to pits and quarries;
- (i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;
- (j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries;
- (k) employ any person to perform work in connection with any matter mentioned in this Act; and
- (l) consult with ministries, municipalities and agencies.

New. 

4.—(1) The Minister may designate in writing any employee of the Ministry as an inspector for the purposes of this Act. R.S.O. 1980, c. 378, s. 1 (b), *amended*. Designation of inspectors

(2) An inspector, for the purpose of carrying out assigned duties, Powers of inspectors

- (a) may enter, at any reasonable time, any land, vessel or business premises that is or appears to be used or has or appears to have been used in respect of a pit or quarry or any activity or use related to aggregate or rehabilitation;
- (b) may require the production of a licence, a permit, any record or document respecting aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof;
- (c) may, upon giving a receipt therefor, remove any licence, permit, record or document produced under clause (b) and make copies thereof; and
- (d) may, alone or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material. R.S.O. 1980, c. 378, s. 13 (1), *amended*.

(3) An inspector who makes a copy under clause (2) (c) shall do so with dispatch and shall promptly return the original licence, permit, record or document. Copies

(4) Any copy made as provided in clause (2) (b) or (c) and certified to be a true copy by the inspector who carried out the inspection is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original licence, permit, record or document and its contents. *New*. Idem

5.—(1) This Act and the regulations apply to, Application

- (a) all aggregate and topsoil that is the property of the Crown or that is on land the surface rights of which are the property of the Crown;
- (b) private land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or a predecessor thereof; R.S.O. 1980, c. 378

(c) private land in parts of Ontario that are designated under subsection (2); and

(d) all land under water. *New.*

Designation
of parts

(2) The Lieutenant Governor in Council may make regulations designating parts of Ontario for the purpose of clause (1) (c). R.S.O. 1980, c. 378, s. 2, *amended*.

Redesign-
ation of
designated
parts

R.S.O. 1980,
c. 378

(3) The Lieutenant Governor in Council may make regulations redesignating the parts of Ontario that have been designated under the *Pits and Quarries Control Act* or a predecessor thereof. *New.*

Act binds the
Crown

6. This Act binds the Crown except where it specifically states otherwise. *New.*

PART II

LICENCES

Licences
required

7.—(1) No person shall, in a part of Ontario designated under section 5, operate a pit or quarry on land that is not land under water and the surface rights of which are not the property of the Crown except under the authority of and in accordance with a licence.

Application
for licence

(2) Any person may apply to the Minister, on a form provided by the Minister,

(a) for a Class A licence to excavate annually more than 20,000 tonnes of aggregate from a pit or quarry; or

(b) for a Class B licence to excavate annually 20,000 tonnes or less of aggregate from a pit or quarry.

Idem

(3) Every application for a licence must be accompanied by,

(a) ten copies of the site plan referred to in section 8;

(b) if the application is for a Class A licence, ten copies of the report referred to in section 9;

(c) the information referred to in section 10; and

(d) the prescribed application fee. R.S.O. 1980, c. 378, s. 4, *amended*.

(4) The number of copies of a site plan or of a report that are required to be submitted under subsection (3) may be varied, in specific situations, by the Minister. Copies

(5) The Minister may require an applicant for a licence to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused. Additional information
New.

8.—(1) The site plan accompanying an application for a Class A licence must show, Site plans for licences

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and the use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location and type of existing and proposed fences;
- (h) the location of existing and proposed tree screens and the species, size and types of the trees;
- (i) the location, dimensions and design of earth berms;
- (j) any significant natural and man made features;
- (k) the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden and the location and size of proposed aggregate stockpile areas;
- (l) the topography of the site including existing and estimated final contours;

- (m) every existing and proposed entrance to and exit from the site;
- ➡ (n) all existing and proposed major roads on the site; ➡
- (o) the water table and any existing surface water on and surrounding the site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters;
- (p) subject to available information, the location of water wells on and within 300 metres of the site;
- (q) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (r) the sequence and direction of operation of the pit or quarry;
- (s) the progressive rehabilitation and final rehabilitation plans; and
- (t) any other necessary information respecting the site. R.S.O. 1980, c. 378, s. 4 (2), *amended*.

Idem

(2) The information required under subsection (1) must be presented in at least three separate drawings under the headings,


- (a) Existing Features;
- (b) Operational Plan; and
- (c) Progressive Rehabilitation and Final Rehabilitation Plans.





Idem

(3) For the purpose of subsection (2), the drawings must be at a scale of 1:2000, 1:5000 or, in any particular case, at such other scale as the Minister may approve.

Site plan

➡ (4) Every site plan accompanying an application for a Class A licence must be prepared under the direction of and certified by a professional engineer who is a member of the Association of Professional Engineers of Ontario, a land surveyor who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or any other qualified person approved in writing by the Minister. *New*. ➡

(5) The site plan accompanying an application for a Class B licence must show,  Site plans for Class B licences

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location and type of existing and proposed fences;
- (h) the location of existing and proposed tree screens and the species, size and types of the trees;
- (i) the location, dimensions and design of earth berms;
-  (j) any significant natural and man made features;
- (k) the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden and the location and size of proposed aggregate stockpile areas; 
- (l) the existing and estimated final elevations of the site;
-  (m) every existing and proposed entrance to and exit from the site;
- (n) any existing surface water on and surrounding the site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters; 
- (o) subject to available information, the location of water wells on and within 300 metres of the site;

- (p) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (q) the sequence and direction of operation of the pit or quarry;
- (r) the progressive rehabilitation and final rehabilitation plans;
- (s) the approximate scale; and
- (t) any other necessary information respecting the site.
R.S.O. 1980, c. 378, s. 4 (3), *amended*.

Signature

(6) Every site plan accompanying an application for a Class B licence must be in a style and manner acceptable to the Minister and must be signed by the applicant.

Plans
property of
the Crown

(7) Every site plan submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. *New*.


Report

9.—(1) The report accompanying an application for a Class A licence must be signed by the author and must provide information for evaluation by the Minister,


- (a) as to the suitability of the progressive rehabilitation and final rehabilitation plans having regard to the adjacent lands;
- (b) describing the environment that may be expected to be affected by the pit or quarry operation and any proposed remedial measures that are considered necessary;
- (c) describing the social and economic effects that may be expected as a result of the pit or quarry operation;
- (d) respecting the quality and quantity of the aggregate on the site;
- (e) as to the main haulage routes and proposed truck traffic to and from the site;
- (f) supplementing clause 8 (1) (o);
- (g) describing the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden

and the location and size of proposed aggregate stockpile areas; 


- (h) respecting any planning and land use considerations;
- (i) setting out the reasons for any conclusions in the report; and
- (j) any other necessary information respecting the site.

(2) Every report submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. *New.* 

Reports
property of
the Crown

10. An applicant for a licence must furnish information satisfactory to the Minister describing the zoning by-laws applicable to the site and adjacent lands. *New.* 

Zoning
by-laws

11.—(1) The Minister, upon being satisfied that an application for a licence and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information and comment. 

Copies to
municipalities


(2) On the day that the Minister effects service under subsection (1), the Minister shall serve the applicant with notice that the applicant must cause notice of the application,

Notice by
Minister

- (a) to be published in the prescribed form in two successive issues of a newspaper or newspapers having general circulation in the locality in which the site is located; and
- (b) to be given in signs placed in the prescribed manner on the site.

(3) The applicant shall notify the Minister when the publication of the notice and the placement of the signs have been completed.

Notice of
publication

(4) Any person may serve upon the Minister, within forty-five days after the second publication of the notice under clause (2) (a) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor. 

Notice of
objection

Idem (5) Upon receipt of a notice under subsection (4), the Minister shall provide the applicant with a copy thereof. *New.*

Notice requiring hearing (6) Any person who has served notice under subsection (4) may, in addition, serve upon the Minister, within the period provided under subsection (4), a notice that the person requires a hearing of the matter before the Board.

Reference to Board for a hearing (7) Upon receipt of a notice under subsection (6) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (3), *amended.*

Idem (8) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), *amended.*

What Board may consider at one hearing (9) The Board may consider an application for an amendment to any relevant planning matter referred to it under the *Planning Act, 1983* and an application referred to it under subsection (7) or (8) at the same hearing. *New.*

Matters to be considered by Minister **12.** The Minister in considering whether to issue or refuse a licence shall have regard to,

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by the municipality in which the site is located;
- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources;
- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;

- (i) the quality and quantity of the aggregate on the site;
- (j) the recommendation of the Board under section 21, if such a recommendation is made; and
- (k) such other matters as are considered appropriate.
R.S.O. 1980, c. 378, s. 6 (1), *amended*.


13.—(1) The Minister may issue a licence, subject to such conditions as the Minister considers necessary. R.S.O. 1980, c. 378, s. 6 (4), *amended*. Issue of licences

(2) Subject to section 20, the Minister may, at any time, add a condition to a licence or rescind or vary a condition of a licence. Changes of conditions

(3) A licensee and any municipality served with notice under clause 20 (4) (a) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed. No action until 30 days elapsed after notice by Minister

(4) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and if the licensee waives the right under subsection 20 (6) to require a hearing. Exception

➡ (5) The Minister may, subject to subsections 69 (3) and 70 (3), issue a licence only if the site complies with all relevant zoning by-laws. Zoning by-laws

(6) The Minister, if in doubt as to whether there is compliance with a zoning by-law, may require the applicant to refer the matter to the Divisional Court for a declaratory judgment on the matter. Reference to court 

(7) The Minister, on issuing a licence, shall serve a copy of it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.* Copies to municipalities

14.—(1) Every licensee shall pay to the Treasurer an annual licence fee, at a time specified by the Minister, in an amount equal to the application fee paid for the licence or calculated by multiplying the number of tonnes of aggregate removed from the site during the previous year by the prescribed rate per tonne, whichever is greater. Annual licence fees

Revocation	(2) If the required licence fee is not paid, the Minister may revoke the licence.
No notice or hearing	(3) Subsections 20 (3), (5) and (6) do not apply to a licence revoked under subsection (2).
Disbursal of annual licence fees	(4) The prescribed percentage of the total of the annual licence fees collected shall be disbursed to such municipalities and in such amounts, manner <u>and for such purposes</u> as are prescribed.
Rehabilitation of abandoned pits and quarries	(5) The prescribed percentage of the total of the annual licence fees collected <u>shall</u> be set apart for the purposes mentioned in subsection 33 (2).
Unpaid licence fees	(6) Any unpaid annual licence fee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. <i>New.</i>
Duties of licensees	15. Every licensee shall operate the licensee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the licence. R.S.O. 1980, c. 378, s. 3, s.4 (4), <i>part, amended.</i>
Amendment of site plans	16.— (1) Subject to section 20, the Minister may at any time require a licensee to amend the site plan. <i>New.</i>
Idem	(2) A licensee may amend the site plan at any time with the approval in writing of the Minister. R.S.O. 1980, c. 378, s. 4 (4), <i>part, amended.</i>
Idem	(3) The Minister may require any amended site plan to be prepared under the direction of and certified by a person referred to in subsection 8 (4).
No action until 30 days elapsed after notice by Minister	(4) A licensee and any municipality served with notice under clause 20 (4) (b) or (c) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed.
Exception	(5) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and, in the case of a proposal to require the amendment of a site plan, if the licensee waives the right under subsection 20 (6) to require a hearing. <i>New.</i>
Inspection and review	17.— (1) For the purpose of assessing the licensee's compliance with this Act, the regulations, the site plan and the con-

ditions of the relevant licence, the Minister, at least once a year,

- (a) shall cause each site to be inspected;
- (b) shall cause a review of each site plan and the conditions of each licence; and
- (c) shall consider all comments provided by the municipalities in which the site is located concerning the licensee's compliance with this Act, the regulations, the site plan and the conditions of the relevant licence. R.S.O. 1980, c. 378, s. 7 (1), *amended*.

(2) An inspector, upon completing an inspection of a site, shall prepare a written report that shall include a description of any practice or procedure of the licensee or any matter related to the site that, in the opinion of the inspector, is a contravention of this Act, the regulations, the site plan or the conditions of the relevant licence.

Written
report by
inspector

(3) Any person may, during normal office hours of the Ministry, examine any report made under subsection (2) and, upon a request therefor and payment of a reasonable fee, such person shall be provided with a copy of the report or extracts therefrom.

Copy of
report

(4) For the purpose of each fourth review under subsection (1), the Minister shall, where applicable, request in writing that the council of the regional municipality or county, as the case may be, and the council of the local municipality in which each pit or quarry is located send to him or her, within forty-five days after receiving the request, their comments on each pit or quarry concerning the licensee's compliance with this Act, the regulations, the site plan and the conditions of the relevant licence.

Municipal
comments
every four
years

(5) If a copy of a site plan is served upon the Minister under subsection 69 (5), each fourth review shall be calculated from the year in which service was made upon the Minister.


Idem

18.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a licence. R.S.O. 1980, c. 378, s.14, *amended*.

Transfer of
licence

(2) Any municipality served with notice under clause 20 (4) (d) may provide the Minister with comments on compliance with this Act, the regulations, the site plan and the conditions of the licence within thirty days after service of the

Idem

notice and the Minister shall take no action until the thirty days have elapsed or comments have been received, whichever occurs first. 

Transfer of
rehabilitation
security

(3) When a licence is transferred, any sum in the rehabilitation security account of the transferor shall be transferred to an account in the name of the transferee and the right, title and interest in that sum vest in the transferee.

Copy to
municipalities

(4) When a licence is transferred, the Minister shall, where applicable, serve a copy of the licence in the name of the transferee upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Death of
licensee

(5) On the death of an individual who holds a licence as a sole proprietor, the personal representative of the individual may continue to operate the pit or quarry for a period of one year as if the licence were issued to the personal representative.

Idem

(6) A personal representative who operates a pit or quarry under subsection (5) shall notify the Minister of the death of the licensee within one month thereafter. *New.*

Surrender of
licence

19.—(1) Upon being satisfied that a licensee's annual licence fee and rehabilitation security, whenever payable, have been paid before the licensee applies to surrender a licence and that the rehabilitation has been performed in accordance with this Act, the regulations, the site plan and the conditions of the licence, the Minister may accept the surrender of the licence.

Disposition
of surplus
rehabilitation
moneys

(2) Any sum remaining in a former licensee's rehabilitation security account when the Minister accepts surrender of the licence shall be paid by the Treasurer to the former licensee. *New.*

Refusal to
issue and
refusal to
consent to
transfer of
licence

20.—(1) The Minister may refuse to issue or refuse to consent to the transfer of a licence. R.S.O. 1980, c. 378, s. 6 (1), *part, amended.*

Revocation
of licences

(2) The Minister may revoke a licence for any contravention of this Act, the regulations, the site plan or the conditions of the licence. R.S.O. 1980, c. 378, s. 7 (2), *amended.*

Notice to
licensee

(3) If the Minister,

(a) refuses to issue a licence and the application has not been referred to the Board for a hearing under section 11 or 60;

(b) attaches a condition to a licence issued under subsection 69 (3) that adds, rescinds or varies a condition of the licence it replaces;

(c) refuses to consent to the transfer of a licence; or

(d) revokes a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the applicant or licensee.

(4) If the Minister,

Idem

(a) proposes to add a condition to a licence after its issue or to rescind or vary a condition of a licence;

(b) proposes to require the amendment of a site plan;

(c) proposes to approve the amendment of a site plan;
or

(d) proposes to consent to the transfer of a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the licensee and where, in the opinion of the Minister, the matter is of importance and it is appropriate to do so, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

(5) Any action of the Minister under clause (3) (a), (b), (c) or (d) is effective as soon as the required notice is served upon the applicant or licensee and, despite the fact that the applicant or licensee requires a hearing by the Board, remains effective until the Minister takes action under subsection 21 (4). Time of taking effect

(6) An applicant or licensee who is served with a notice under subsection (3) or (4) is entitled to a hearing by the Board if the applicant or licensee, within thirty days after being served, serves the Minister with a notice that a hearing is required. Entitlement to hearing

(7) The Minister, if served with a notice under subsection (6), shall, within thirty days after being served, refer the mat- Hearing

ter to the Board for a hearing. R.S.O. 1980, c. 378, s. 8, *amended*.

Where no
hearing

(8) If the Minister proposes an action referred to in clause (4) (a) or (b) and the applicant or licensee does not require a hearing under subsection (6), the Minister may carry out the proposal. *New*.

Hearing by
Board

21.—(1) The Board shall hold a hearing on a matter referred to it under section 11, 20 or 60, and the applicant or licensee, the Minister and such other persons as the Board specifies shall be parties to the hearing.

Procedure

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the *Ontario Municipal Board Act*, except that section 94 of that Act does not apply.

R.S.O. 1980,
c. 347

Report of
Board

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister setting out its findings and its recommendations as to the issue involved and shall send a copy of its report to each party to the hearing.

Decision of
Minister

(4) After considering the report of the Board, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision and the reasons therefor upon the other parties to the hearing and upon any municipality served under subsection 11 (1) or subsection 20 (4), as the case may be.

Decision final

(5) The decision of the Minister is final. R.S.O. 1980, c. 378, s. 9, *amended*.

Suspension of
licence

22.—(1) The Minister may suspend a licence for any period of time, not exceeding six months, for any contravention of this Act, the regulations, the site plan or the conditions of the licence, effective as soon as the notice mentioned in subsection (2) is served upon the licensee. R.S.O. 1980, c. 378, s. 8 (4), *amended*.

Notice of
suspension

(2) Notice of suspension of a licence, including the reasons therefor, shall be served upon the licensee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Further
particulars of
notice


(3) The notice mentioned in subsection (2) shall inform the licensee of the period of the suspension, of the action the licensee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the

licensee has complied with the notice to the satisfaction of the Minister, and that, if the licensee does not comply with the notice within the period of the suspension, the Minister may revoke the licence.

(4) If a licensee whose licence has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the licence, in which case subsections 20 (3), (5) and (6) apply. *New.* Revocation

PART III

WAYSIDE PERMITS

 **23.**—(1) Any public authority, or any person who has a contract with a public authority, that requires aggregate for a temporary project from a source in a part of Ontario designated under section 5 that is not under licence or permit may apply to the Minister, on a form provided by the Minister, for a wayside permit to operate a pit or quarry. Application for wayside permit

(2) Subsection 7 (1) does not apply to a person who has a wayside permit. Licence not required


(3) An application under subsection (1) shall not be considered unless, in the Minister's opinion, Limitation


(a) the aggregate is required,

(i) for a project of road construction or road maintenance, from outside the limits of the right of way of the highway, or

(ii) for an urgent project for which no alternative source of aggregate under licence or permit is readily available in the vicinity;

(b) the aggregate is necessary for the purposes of a contract or project; and

(c) adequate provision can be made as conditions of the permit to ensure a method of operation and rehabilitation so as to cause only a temporary inconvenience to the public. 

(4) Every application for a wayside permit shall be accompanied by five copies of the site plan referred to in section 25.  Requirements for permit

(5) The Minister may require an applicant for a wayside permit to furnish additional information in such form and Additional information

manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused.

Copies to
municipalities

(6) The Minister, upon being satisfied that an application for a wayside permit and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

Permit fees

24.—(1) Every applicant for a wayside permit shall, before the permit is issued, pay to the Treasurer a prescribed permit fee or a permit fee as calculated by multiplying the maximum number of tonnes that the permit authorizes by the prescribed rate per tonne of aggregate, whichever is the greater.

Refund of
fee

(2) If a wayside permit expires or is revoked, the permittee is entitled to a refund of any remaining balance of the permit fee calculated by multiplying the number of tonnes that the permit authorized that were not removed from the site by the prescribed rate per tonne of aggregate applicable at the date the permit was issued.

Disbursal of
permit fees

(3) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be disbursed to such municipalities and in such amounts, manner and for such purposes as are prescribed.

Rehabili-
tation of
abandoned
pits and
quarries

(4) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be set apart for the purposes mentioned in subsection 33 (2).

Non-
refundable
fee

(5) Despite subsection (2), the prescribed permit fee is not refundable. *New.*

Site plans for
wayside
permits

25.—(1) The site plan accompanying an application for a wayside permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.

Idem

(2) The site plan accompanying an application for a wayside permit must show,

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;

- (c) the public authority that is a party to the contract and the number of the project;
- (d) the location of the project;
- (e) the name and address of the owner of the site;
- (f) the shape, dimensions and hectarage of the site and the area to be excavated;
- (g) the existing and estimated final elevations of the site;
- (h) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (i) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (j) any significant natural and man made features;
- (k) every entrance to and exit from the site;
- (l) any existing and proposed drainage facilities on the site and points of discharge to surface waters;
- (m) subject to available information, the location of water wells on and within 300 metres of the site;
- (n) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (o) the sequence and direction of operation of the pit or quarry;
- (p) the final rehabilitation plan;
- (q) the approximate scale; and
- (r) any other necessary information respecting the site.

(3) Every site plan submitted with an application under this section becomes the property of the Crown upon the permit applied for being issued. *New.*

Property of
the Crown

26. The Minister in considering whether to issue or refuse a wayside permit shall have regard to,

Matters to be
considered by
Minister

- (a) any comments provided by the municipalities in which the site is located;
- (b) the effect of the operation of the pit or quarry on the environment and nearby communities;
- ➡ (c) the amount of aggregate estimated to be removed from the site; ▲
- (d) the estimated cost of the aggregate for the project as compared with that from any alternative source of supply;
- (e) the proper management of the aggregate resources of the area;
- (f) any previous wayside permits for the site and adjacent lands;
- (g) the rehabilitation of the site and its compatibility with adjacent land;
- (h) any possible effects on ground and surface water resources;
- (i) any proposed aesthetic improvements to the landscape;
- ➡ (j) the main haulage routes and proposed truck traffic to and from the site; ▲
- (k) such other matters as are considered appropriate. R.S.O. 1980, c. 378, s. 12 (2), *amended*.

Issue of
permits

27.—(1) The Minister may in his or her discretion issue a wayside permit whether or not the location of the site complies with all relevant zoning by-laws. R.S.O. 1980, c. 378, s. 12 (3), *amended*.

Limitation

(2) No wayside permit shall be issued if the issuance will result in more than one wayside permit for one site at any time.

Niagara
Escarpment
Planning
Area

R.S.O. 1980,
c. 316

➡ (3) Despite subsection (1), no wayside permit shall be issued for a site in the Niagara Escarpment Planning Area, as defined in the *Niagara Escarpment Planning and Development Act*, unless the location of the site complies with a development permit issued under that Act.

(4) Despite subsection (1), no wayside permit shall be issued for a site zoned and developed for residential use or zoned as an area having particular environmental sensitivity.

Exception

(5) The Lieutenant Governor in Council may make regulations governing and limiting the issuance of wayside permits.

Regulations limiting issuance

New.

28. The Minister, on issuing a wayside permit, shall, where applicable, serve a copy of the wayside permit upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

Copies to municipalities

29. Every wayside permittee shall operate the permittee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the permit. R.S.O. 1980, c. 378, s. 3, s. 4 (4), *part, amended.*

Duties of permittees

30.—(1) The Minister may in his or her discretion issue a wayside permit subject to such conditions as are considered necessary, including conditions that set out the maximum amount of aggregate that may be removed, the maximum area that may be excavated and, subject to section 31, the duration of the permit.

Permit subject to conditions

(2) The Minister may, at any time, add a condition to a wayside permit or rescind or vary any condition of a wayside permit.

Variation of conditions

(3) The Minister, after taking any action under subsection (2), shall serve notice thereof, including reasons therefor, upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

Notice to municipalities

31. A wayside permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. R.S.O. 1980, c. 378, s. 12 (4), *amended.*

Expiration of permit

32.—(1) The Minister may, at any time, suspend or revoke a wayside permit for any contravention of this Act, the regulations, the site plan or the conditions of the permit, effective as soon as the notice mentioned in subsection (2) is served upon the permittee. R.S.O. 1980, c. 378, s. 12 (5), *amended.*

Suspension or revocation

Notice to
municipalities

(2) Notice of suspension or revocation of a permit, including reasons therefor, shall be served upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Suspension—
duration

(3) The Minister may suspend a wayside permit for any period of time not exceeding six months.

Suspension—
further
particulars of
notice

(4) The notice mentioned in subsection (2) shall inform the permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit.

Suspension—
consequence
of no
remedial
action

(5) If a permittee whose permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the permit.
New.

PART IV

ABANDONED PITS AND QUARRIES

Abandoned
pits and
quarries

33.—(1) The Minister may declare any pit or quarry for which a licence or wayside permit is not in force to be abandoned,

- (a) after receiving the consent of the person assessed for the land on which the pit or quarry is located; and
- (b) where applicable, after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located.

Disbursal for
rehabilitation

(2) The Minister may disburse any portion of the fees set apart under subsections 14 (5) and 24 (4) for,

- (a) pre-program surveys or studies respecting the location, condition and rehabilitation of pits and quarries, for which a licence or wayside permit is not in force; and
- (b) the rehabilitation of abandoned pits and quarries.
New.

PART V

AGGREGATE PERMITS

34.—(1) No person shall, except under the authority of and in accordance with an aggregate permit, operate a pit or quarry, Aggregate permits required

- (a) to excavate aggregate or topsoil that is on land the surface rights of which are the property of the Crown;
- (b) to excavate aggregate or topsoil that is the property of the Crown from land under water;
- (c) to excavate aggregate or topsoil that is the property of the Crown in a part of Ontario that is not designated under section 5; or
- (d) to excavate aggregate that is not the property of the Crown from land under water.

(2) The excavation of aggregate or topsoil resulting from non-aggregate mineral extraction from a placer deposit is considered to be the operation of a pit for the purpose of subsection (1). Idem

(3) The removal from the site of stockpiled aggregate or topsoil that is the property of the Crown and was excavated under an aggregate permit is considered to be the operation of a pit for the purpose of subsection (1). Idem

(4) Any person may apply to the Minister, on a form provided by the Minister, for an aggregate permit to operate a pit or quarry. Applications for aggregate permits

(5) A person who, except for this subsection, would apply for an aggregate permit shall apply for a licence if, When a licence is required instead of an aggregate permit

- (a) the site is in a part of Ontario designated under section 5;
- (b) the site is partly on land the surface rights of which are the property of the Crown and partly on land the surface rights of which are not the property of the Crown; and
- (c) the Minister directs the person in writing to apply for a licence. *New.*

Classes of
aggregate
permits

35.—(1) A commercial aggregate permit authorizes the excavation of aggregate and topsoil to be used for resale or commercial purposes or in conjunction with a commercial undertaking.

Idem

(2) A public authority aggregate permit authorizes a public authority to excavate aggregate and topsoil for use by the public authority but not for resale or commercial purposes.

Idem

(3) A public authority aggregate permit authorizes a person who has a contract with a public authority to excavate aggregate and topsoil for use by that person in a project of the public authority but not for resale or commercial purposes.

Idem

(4) A personal aggregate permit authorizes an individual or a group of individuals to excavate aggregate and topsoil for use by the individual or group of individuals but not for resale or commercial purposes. *New.*

Information
required

36.—(1) Every application for an aggregate permit must be accompanied by,

➡ (a) a site plan;

(b) where applicable, information on any aquatic biological resources that may be affected by the operation of the pit or quarry and measures proposed to minimize impacts on and to restore aquatic biological habitat on the site; and
➡

(c) such additional information in such form and manner as the Minister considers necessary.

Idem

(2) Until the information mentioned in subsection (1) is furnished to the Minister's satisfaction, further consideration of the application may be refused.

Idem

(3) The Minister may waive the requirement for a site plan for an application for a personal aggregate permit.

Site plans

(4) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry that is entirely on dry land must show,

(a) the location of the site;

(b) existing conditions, including the shape, dimensions and area to be excavated, topography and land use on the site and within 150 metres of the site;

- (c) location, dimensions and use of any buildings or other structures existing or proposed to be erected on the site or existing within 150 metres of the site;
- (d) method and phasing of the operation;
- (e) estimated final elevations;
- (f) proposed progressive rehabilitation and final rehabilitation plans;
- (g) existing and proposed drainage and points of discharge to surface water;
- ➡ (h) location and size of existing and proposed stockpiles of overburden and soil and location and size of proposed aggregate stockpile areas; ▲
- (i) location and type of fences;
- (j) all existing and proposed entrances to and exits from the site;
- (k) location of the excavation setback limits; and
- (l) the approximate scale.

(5) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located entirely on land covered by water must show, Idem

- (a) the location of the proposed operation and distance from the nearest shore and existing shoreline land uses that may be affected by the operation;
- (b) as nearly as possible the extent and nature of the aggregate deposit to be excavated;
- (c) the depth of the water covering the deposit; and
- (d) the proposed method of operation.

(6) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located partly on dry land and partly on land covered by water must show the information required in subsection (4) in respect of the dry land and the information required in subsection (5) in respect of the land covered by water. Idem

- Idem (7) Every site plan accompanying an application for an aggregate permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.
- Waiver, etc.,
by Minister (8) The Minister may require additional information or may waive, vary or reduce the information required under subsection (4), (5) or (6).
- Plans
property of
the Crown (9) Every site plan submitted with an application under this section becomes the property of the Crown upon the aggregate permit applied for being issued. *New.*
- Issue of
aggregate
permits **37.**—(1) The Minister may issue an aggregate permit for a fixed period of not more than five years, subject to such conditions as are considered necessary.
- Idem (2) The Minister, on being satisfied that an applicant for an aggregate permit requires the use of aggregate in conjunction with the operation of a producing mine and that use will likely extend beyond five years, may issue the permit for a term exceeding five years.
- Permit fees (3) Every applicant for an aggregate permit shall, before the permit is issued, pay to the Treasurer a permit fee as prescribed.
- Limitation (4) No aggregate permit shall be issued for sand and gravel where the sand and gravel has been included in a mining claim as a placer deposit under the *Mining Act* until the non-aggregate mineral has been removed from the placer deposit.
- R.S.O. 1980,
c. 268
- Conditions (5) An aggregate permit issued in respect of a pit or quarry located entirely or partly on land covered by water that is not the result of excavation below the water table shall contain such conditions as are considered necessary to minimize adverse impacts on or to restore aquatic biological habitat on the site.
- Changes in
conditions (6) The Minister may at any time add a condition to an aggregate permit or rescind or vary any condition of such a permit.
- Amendment
of site plans (7) Subject to sections 43 and 44, the Minister may at any time require an aggregate permittee to amend the site plan.
- Idem (8) An aggregate permittee may amend the site plan at any time with the approval in writing of the Minister. *New.*
- Public
authority **38.** The Minister, if of the opinion that it is in the public interest, may authorize a public authority with a project that

requires aggregate or topsoil or any person who has a contract with a public authority for such a project to excavate and remove undisturbed aggregate or topsoil in the ground that is the property of the Crown from a site that is subject to an aggregate permit. *New.*

39.—(1) Any person who holds a commercial or public authority aggregate permit may, before the expiry of the permit, apply to the Minister for another aggregate permit for the same site to come into effect upon the expiry of the previous permit. *Renewal of permits*

(2) If another aggregate permit is issued for the same site, the new permit may cover a smaller area than the previous permit covered and contain different conditions than did the previous permit and the Minister may require an amendment to the site plan that accompanied the previous permit. *Change in area, conditions and site plan* *New.*

40. Every aggregate permittee shall carry on the operation in accordance with this Act, the regulations, the site plan, if any, and the conditions of the permit. *Duties of permittees* *New.*

41.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a commercial aggregate permit. *Transfer of permits*

(2) A personal or public authority aggregate permit is not transferable. *Idem* *New.*

42. The Minister may, *Revocation, refusal to issue or transfer*

(a) refuse to issue an aggregate permit under section 37 or 39;

(b) refuse to consent to the transfer of an aggregate permit; or

(c) revoke an aggregate permit,

if,

(d) the Minister considers the issuance, transfer or continuation of the permit to be contrary to the public interest;

(e) in the opinion of the Minister, a substantial amount of aggregate or topsoil has not been removed from the site under the permit during the previous twelve months; or

- (f) the permittee has contravened any provision of this Act, the regulations, a site plan or any of the conditions to which the permit is subject. *New.*

Notice to
applicant or
permittee

43.—(1) If the Minister,

- (a) refuses to issue an aggregate permit to excavate aggregate or topsoil that is not the property of the Crown;
- (b) revokes an aggregate permit;
- (c) refuses to issue another aggregate permit;
- (d) proposes to issue another aggregate permit for a smaller area or with different conditions or site plan from the previous permit;
- (e) proposes to add, rescind or vary a condition of an aggregate permit;
- (f) attaches a condition to an aggregate permit issued under subsection 69 (12) that adds, rescinds or varies a condition of the permit or licence it replaces; or
- (g) proposes to require the amendment of a site plan,

the Minister shall serve forthwith notice thereof including the reasons therefor upon the applicant or permittee. R.S.O. 1980, c. 268, s. 119 (1), *part, amended.*

Time of
taking effect

(2) Any action of the Minister under clause (1) (a), (b), (c) or (f) is effective as soon as the notice is served upon the applicant or permittee and, despite the fact that the applicant or permittee requires a hearing by the Commissioner, remains effective until the Minister takes action under subsection 44 (5).

No action
until 30 days
elapsed

(3) The Minister shall take no action proposed under clause (1) (d), (e), (f) or (g) until the thirty days referred to in subsection 44 (1) have elapsed.

Where no
hearing

(4) The Minister may carry out a proposal under clause (1) (d), (e), (f) or (g) if the proposal is not referred to the Commissioner. *New.*

Entitlement
to hearing

44.—(1) An applicant or aggregate permittee who is served with a notice mentioned in subsection 43 (1) is entitled to a hearing by the Commissioner if the applicant or permit-

tee, within thirty days after being served, serves the Minister with a notice that a hearing is required.

(2) The Minister, if served with a notice under subsection (1), shall, within thirty days after being served, refer the matter to the Commissioner for a hearing. Hearing

(3) The Commissioner shall hold a hearing on a matter referred under subsection (2) and, after the hearing, make a recommendation to the Minister. Recommendation by Commissioner

(4) The Commissioner shall specify the parties to the hearing. R.S.O. 1980, c. 268, s. 119 (2, 4), *amended*. Idem

(5) After considering the recommendation of the Commissioner, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision on the parties to the hearing. Decision by Minister

(6) The decision of the Minister is final. *New*. Decision final

45.—(1) The Minister may suspend an aggregate permit for any period of time not exceeding six months, Suspension of permit

(a) for any contravention of this Act, the regulations, the site plan or the conditions of the permit; or

(b) if, in the opinion of the Minister, the continuation of the operation under the permit will likely cause damage to property or is contrary to the public interest. R.S.O. 1980, c. 39, s. 4 (7), *part, amended*.

(2) The suspension shall be effective as soon as the required notice is served upon the permittee. *New*. Time of taking effect

(3) Notice of a suspension of an aggregate permit, including the reasons therefor, shall be served upon the permittee. R.S.O. 1980, c. 39, s. 4 (7), *part, amended*. Notice of suspension

(4) The notice of suspension shall inform the aggregate permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit. Further particulars of notice

Revocation

(5) If a permittee whose aggregate permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the aggregate permit, in which case sections 43 and 44 apply. *New.*

Royalties

46.—(1) The Minister shall determine the royalty per tonne that each aggregate permittee removing from the site aggregate or topsoil that is property of the Crown must pay, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the aggregate or topsoil and its intended use.

Returns and payment

(2) Every aggregate permittee shall make a return, when required by the Minister, showing the quantity of material removed from the site and, at the same time, enclose the required royalty payment payable to the Treasurer.

Security or deposit

(3) The Minister may require an aggregate permittee to give, in an amount determined by the Minister, security of the prescribed kind or a deposit for the payment of any royalty that is due or that may become due under subsection (1).

Recovery of royalties in default

(4) The amount of a default in the payment of a royalty under this section may be recovered by the Crown from any security given under subsection (3) or as a debt due to the Crown in any court of competent jurisdiction.

Exemption from royalty payment

(5) No royalty is payable by an aggregate permittee,

- (a) who is exempted from payment by the Minister; or
- (b) who belongs to a class of permittees exempted from payment by the regulations.

Licensee removing Crown aggregate or topsoil pays royalties

(6) Subsections (1) to (5) apply to a licensee who removes from the site aggregate or topsoil that is the property of the Crown as if the references to "aggregate permittee" were references to "licensee". *New.*

PART VI

REHABILITATION

Application of Part

47. This Part does not apply to a pit or quarry or part thereof that is covered by water that is not the result of excavation of aggregate below the water table. *New.*

48.—(1) Every licensee and every permittee shall perform progressive rehabilitation and final rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister.

Duty to
rehabilitate
site

(2) The Minister, upon being satisfied that a licensee, a permittee or former permittee has not performed adequate progressive rehabilitation on the site, may order the licensee, permittee or former permittee, as the case may be, to perform within a specified period of time such progressive rehabilitation as the Minister considers necessary and the licensee, permittee or former permittee shall comply with the order. *New.*

Minister's
order
requiring
progressive
rehabilitation

49. The Minister may waive or reduce the rehabilitation requirements, in respect of excavation of aggregate that is the property of the Crown, if, in the opinion of the Minister, to do so is not contrary to the public interest. *New.*

Waiver

50.—(1) Every licensee shall pay to the Treasurer security for the rehabilitation of the site at the prescribed time and in the prescribed amount and manner. R.S.O. 1980, c. 378, s. 11 (1), *amended.*

Rehabili-
tation
security
payments by
licensees

(2) Any security for the rehabilitation of the site not paid by a licensee or former licensee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.*

Recovery of
amount not
paid

51.—(1) Every person who applies for a permit must, before the permit is issued, pay to the Treasurer security for the rehabilitation of the site in the prescribed amount and manner.

Rehabili-
tation
security
payments by
permittees

(2) Despite subsection (1), the Minister may, in the case of an aggregate permit, waive the payment, in advance, of the security in which event security shall be paid at the prescribed time.

Waiver

(3) The Minister may waive any security required under this section if the Minister does not consider it to be necessary or in the public interest.

Idem

(4) Any security for the rehabilitation of a site not paid by a permittee or former permittee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.*

Recovery of
amount not
paid

Rehabilitation
security
accounts

52.—(1) Sums paid by a licensee or permittee under section 50 or 51 shall be held in an account in that person's name and shall be paid out in accordance with the regulations.

Interest
payable

(2) Sums paid by a licensee or permittee under section 50 or 51 earn interest at the prescribed rate.

Interest
deemed
security

(3) Interest earned under subsection (2) is part of the rehabilitation security. *New.*

Partial
refunds

53. Every licensee or permittee who submits proof, satisfactory to the Minister, of progressive rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund out of the rehabilitation security account in accordance with the regulations. *New.*

Refunds
when rehabilitation
fully
performed

54. Every licensee, permittee, former licensee or former permittee who has submitted proof, satisfactory to the Minister, of final rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund of the total sum to that person's credit in the rehabilitation security account. *New.*

Entry upon
site for
rehabilitation

55.—(1) A licensee, permittee, former licensee or former permittee who does not, without this subsection, have the right to enter upon a site not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit may enter upon the site and perform such rehabilitation as the Minister considers necessary.

Refunds

(2) Rehabilitation performed under subsection (1) is final rehabilitation for the purpose of section 54. *New.*

When
rehabilitation
not
performed

56.—(1) The Minister or a person authorized in writing by the Minister may enter upon a site in respect of which a licence or permit was revoked or expired and not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister and may perform such rehabilitation as the Minister considers necessary.

Recovery of
cost

(2) The cost of rehabilitation performed under subsection (1) is a debt due to the Crown by the former licensee or former permittee and shall be paid by the Treasurer out of the former licensee's or former permittee's rehabilitation security account. R.S.O. 1980, c. 378, s. 11, *amended.*

Disposition
of surplus

(3) Any sum remaining to the credit of the former licensee or former permittee in that person's rehabilitation security


account after the cost of rehabilitation performed under subsection (1) has been paid out shall be paid by the Treasurer to that person.

(4) If a sum to the credit of a former licensee or former permittee in the rehabilitation security account is insufficient to defray the cost of rehabilitation, the amount of the deficiency is a debt due to the Crown by the former licensee or former permittee and is recoverable by the Crown in any court of competent jurisdiction. *New.*


Recovery of
deficiency

PART VII

OFFENCES AND PENALTIES

 **57.**—(1) Every person who operates a pit or quarry except under the authority of a licence or permit is guilty of an offence. R.S.O. 1980, c. 378, s. 4 (1), *amended.*

Operation of
pit or quarry
without
licence or
permit

(2) Every person who contravenes or permits the contravention of the site plan or a condition of the licence or permit is guilty of an offence. 


Contra-
vention of
licence,
permit or site
plan

(3) Every person who contravenes any provision of this Act or the regulations is guilty of an offence. R.S.O. 1980, c. 378, s. 18 (1), *part, amended.*


Contra-
vention of
Act or
regulations

(4) Every person who hinders or obstructs an inspector in the performance of the inspector's duties or furnishes the inspector with false information or refuses to furnish the inspector with information is guilty of an offence. R.S.O. 1980, c. 378, s. 13 (2), *amended.*

Obstruction
of inspectors

 **58.**—(1) Every person who commits an offence under section 57 is liable on conviction to a fine of not less than \$500 and not more than \$30,000 for each day on which the offence occurs or continues. R.S.O. 1980, c. 378, s. 18 (1), *amended.*

Penalty

(2) The maximum fine provided under subsection (1) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the convicted person as a result of the commission of the offence. *New.* 

Penalty
increased by
monetary
benefit

59. In any prosecution under this Act, the court may, in addition to imposing a fine under section 58, make such order as the court considers proper to obtain compliance with this Act, the regulations, the site plan or any condition of a licence or permit. *New.*

Order for
compliance

PART VIII

TERRITORY WITHOUT MUNICIPAL ORGANIZATION

Notice of
application
for licence in
area without
municipal
organization

60.—(1) The Minister, upon being satisfied that an application for a licence for a pit or quarry located in territory without municipal organization and the documents accompanying it comply with this Act and the regulations, shall serve the applicant with notice that the applicant must cause notice of the application in the prescribed form to be published in two successive issues of a newspaper having general circulation in the locality in which the site is located and to be given in signs placed in the prescribed manner on the site.

Notice of
publication

(2) The applicant shall notify the Minister when the publication of the notice has been completed. *New.*

Notice of
objection

(3) Any person may serve the Minister, within forty-five days after the second publication under subsection (1) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor.

Idem

(4) Upon receipt of a notice under subsection (3), the Minister shall provide the applicant with a copy thereof.

Notice
requiring
hearing

(5) Any person serving a notice under subsection (3) may, in addition, serve the Minister within the period provided under subsection (3) a notice that the person requires a hearing of the matter before the Board.

Reference to
Board for a
hearing

(6) Upon receipt of a notice under subsection (5) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (1, 3), *amended*.

Idem

(7) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), *amended*.

What Board
may consider
at one
hearing
1983, c. 1

(8) The Board may consider an application referred to it under section 34 of the *Planning Act, 1983*, and an application referred to it under this section at the same hearing. *New.*

Publication
of notice

61.—(1) The Minister shall, in addition to any notice that is required to be served, publish notice of a proposed action under subsection 13 (2), subsection 16 (1) or (2) or subsection 68 (1) or (2) in respect of a site located in territory without

municipal organization in two successive issues of a newspaper having general circulation in the locality in which the site is located.

(2) The Minister may dispense with publication of the notice under subsection (1) if the Minister does not consider the proposal to be a significant matter. Exception

(3) Any person may provide the Minister with comments at any time up to thirty days after the second publication under subsection (1) and the Minister may take no action until the thirty days have elapsed. Comments

(4) Any notice required to be given by the Minister to a municipality for the purpose of information only may, in respect of a site located in territory without municipal organization, be given to such persons and in such manner as the Minister, in his or her discretion, directs. *New.* Notice for information only

PART IX

MISCELLANEOUS



62.—(1) Every licensee or permittee shall keep, for a period of seven years, detailed records of the operation for which the licence or permit has been issued, including copies of all documents relating to sales and shipments. Record keeping

(2) Every licensee or permittee shall make available for inspection by any person authorized for the purpose of this Act all the records required to be kept under subsection (1). R.S.O. 1980, c. 268, s. 121, *amended*. Inspection of records



63.—(1) If it appears to the Minister that any person is not complying or does not intend to comply with this Act or the regulations or a site plan or a condition of a licence or permit, despite the imposition of any penalty for non-compliance, the Minister may apply to a judge of the High Court for an order directing the person to comply. Restraining orders

(2) Upon an application under subsection (1), the judge may make such order as he or she considers proper. Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2). R.S.O. 1980, c. 378, s. 15, *amended*. Appeal

64.—(1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom Service of notices

service is to be made at the last address for service appearing on the records of the Ministry.

Idem

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, and for cause beyond that person's control, receive the notice until a later date. R.S.O. 1980, c. 378, s. 16, *amended*.

Joint effect

R.S.O. 1980,
c. 321

65. This Act and the regulations are in addition to and not in substitution for Regulation 694 of Revised Regulations of Ontario, 1980, made under the *Occupational Health and Safety Act* or any provisions substituted therefor at any time.

Act overrides
municipal by-
laws, etc.

66.—(1) In the event that this Act and the regulations and a municipal by-law, official plan or development agreement treat the same subject-matter in different ways, this Act and the regulations prevail and the by-law, official plan or development agreement is inoperative to the extent that it differs from this Act and the regulations. R.S.O. 1980, c. 378, s. 17 (2), *amended*.

Retroactive
effect

(2) Subsection (1) applies whether the by-law, official plan or development agreement comes into force before or after this Act.

Power to
pass by-laws
restricted
R.S.O. 1980,
c. 302

(3) Every municipal by-law passed under the *Municipal Act*, except a by-law passed under paragraph 137 of section 210, that purports to prohibit the carrying on or operating of a pit or quarry or wayside pit or quarry is inoperative to the extent that it differs from this Act and the regulations.

Idem

(4) Subsection (3) applies to by-laws passed before or after this Act comes into force. *New*.

Regulations

67. The Lieutenant Governor in Council may make regulations,

- (a) respecting the management of the aggregate resources of Ontario;
- (b) prescribing material as aggregate;
- (c) prescribing duties of inspectors;
- (d) prescribing or providing for the calculation of fees and providing for the payment thereof;

- (e) prescribing a rate per tonne of aggregate for the purpose of calculating fees;
- (f) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that shall be disbursed to municipalities, prescribing the amounts, manner and purposes of such disbursements and prescribing the municipalities to which such disbursements shall be made;
- ➡ (g) requiring and providing for the records and information that must be kept and returns that must be filed by municipalities to which fees are disbursed;
- (h) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that may be set apart and disbursed for the purposes mentioned in subsection 33 (2);
- (i) respecting the control and operation of pits and quarries;
- (j) prescribing the minimum royalty for aggregate that is the property of the Crown and providing for the payment thereof;
- ➡ (k) exempting a class or classes of aggregate permittees from the payment of royalties;
- (l) prescribing kinds of security for the purposes of subsection 46 (3);
- (m) governing the rehabilitation of pits and quarries;
- (n) respecting the form, terms and conditions and time of payment of rehabilitation security, prescribing a rate per tonne of aggregate for the purpose of calculating rehabilitation security, prescribing maximum and minimum amounts per hectare of rehabilitation security for aggregate operations, prescribing the rate of interest payable thereon and providing for refunds from rehabilitation security accounts and royalty accounts;
- (o) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;
- (p) prescribing forms for the purposes of this Act and providing for their use;

➡ (g) prescribing the size and content of signs required under subsections 11 (2) and 60 (1) and governing the placement thereof; ⬆

(r) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1980, c. 378, s. 19 (1), *amended*.

Relief from compliance

68.—(1) The Minister, if of the opinion that it is not contrary to the public interest, may, in writing, relieve any licensee or permittee from compliance in whole or in part with the regulations.

Idem

(2) The relief granted under subsection (1) is subject to such conditions as are set out in the instrument giving it. R.S.O. 1980, c. 378, s. 19 (2), *amended*.

Idem

(3) The Minister may at any time rescind or vary any relief granted under subsection (1) upon written notice thereof to the licensee or permittee.

Notice to municipality

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed relief under subsection (1), including reasons therefor, upon the clerk of the local municipality in which the site is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment.

Delay in relief

(5) The Minister may not grant relief until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. *New*.

Pits and quarries under licence or permit under R.S.O. 1980, c. 378

69.—(1) Despite section 77, the *Pits and Quarries Control Act* and the regulations thereunder continue to apply to,

(a) every pit or quarry for which an operator is licensed under that Act for six months after this Act comes into force except where the licence expires under subsection (2) or (3); and

(b) every pit or quarry for which a wayside permit exists under that Act for the remaining term of the permit.

Application for a licence under this Act
R.S.O. 1980, c. 378

(2) During the first three months after this Act comes into force an application for replacing a licence for the identical site under this Act accompanied by the prescribed fee may be made by a licensee under the *Pits and Quarries Control Act* in

respect of that licensee's pit or quarry and, if an application is not so made, the licence under the *Pits and Quarries Control Act* expires at the end of the three-month period.

R.S.O. 1980,
c. 378

(3) Within the six-month period mentioned in subsection (1), if the applicant has paid fees and deposited rehabilitation security as required under the *Pits and Quarries Control Act*, the Minister shall issue a licence under this Act in respect of every application under subsection (2) even if the requirements of section 8 have not been met and whether or not all relevant zoning by-laws are complied with.

Licence to be
issued

(4) As soon as a licence is issued under this Act for a pit or quarry to which this section applies, the licence under the *Pits and Quarries Control Act* expires and that Act and the regulations thereunder cease to apply, but the site plan under that Act continues in effect until superseded by a site plan under this Act.

Idem

R.S.O. 1980,
c. 378

(5) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.

When new
site plan
requirements
to be met

(6) Clauses 7 (3) (a), (b) and (c) and sections 9, 10, 11, 12 and 60 do not apply to applications made under subsection (2) of this section.

ss. 7 (3)
(a-c), 9-12,
60, do not
apply

(7) Despite section 77,

Permits and
licences
under
R.S.O. 1980,
cc. 268, 39

- (a) the *Mining Act* and the regulations thereunder continue to apply to every pit and quarry for which a permit exists under that Act; and
- (b) the *Beach Protection Act* and the regulations thereunder continue to apply to every pit or quarry for which an operator is licensed under that Act,

for the remaining term of the permit or licence, as the case may be, or for twelve months after this Act comes into force, whichever occurs first.

(8) Every permit or licence issued under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* subsisting on the day that this Act comes into force shall be deemed to be a permit or licence, as the case may be, issued under this Act.

Transition re
R.S.O. 1980,
cc. 378, 268,
39

Licences
ruled invalid
by court
R.S.O. 1980,
c. 378

(9) Every licence issued under the *Pits and Quarries Control Act* by the Minister to reflect a change in operator and not revoked before the day this Act comes into force shall be deemed to be subsisting for the purpose of subsection (8) despite the decision of any court.

Expiry of
licences

(10) Every permit or licence referred to in subsection (7) that, on its terms, does not expire within twelve months after this Act comes into force expires with the twelfth month after this Act comes into force.

Application
where permit
or licence
under
R.S.O. 1980,
cc. 268, 39
to expire

(11) If a quarry permit under the *Mining Act* or a licence under the *Beach Protection Act* expires because of the application of subsection (10), the permittee or licensee may apply for a replacing aggregate permit, for the identical site, under this Act by an application accompanied by the prescribed fee submitted not later than ten months after this Act comes into force.

Permit to be
issued

(12) The Minister shall issue an aggregate permit in respect of every application under subsection (11) if the applicant has paid all fees, royalties and security required by this Act under which the permit or licence was issued.

Conditions

(13) Subject to sections 20 and 43, the Minister may attach such conditions as the Minister considers advisable to any licence issued under subsection (3) or any permit issued under subsection (12).

Site plan

(14) The site plan accompanying an application under subsection (12) may be a duplicate of the site plan that accompanied the original application unless the Minister directs otherwise.

Rehabili-
tation
security
R.S.O. 1980,
cc. 378, 268,
39

(15) All fees, royalties, security and interest on deposit or payable under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* in respect of a licence or aggregate permit replaced under this section shall be deemed to be on deposit or payable as provided under this Act.

Credit for
rehabilitation

(16) Any rehabilitation that has been carried out in respect of a pit or quarry under a permit or licence under an Act referred to in this section and for which the permittee or licensee has not received credit under that Act before this Act comes into force shall be deemed to be rehabilitation performed for the purpose of this Act. *New.*

Non-
application of
ss. 10,
11 (2-9), 60

70.—(1) Section 10, subsections 11 (2) to (9) and section 60 do not apply to an application for a licence in respect of a site for which a licence under the *Pits and Quarries Control*

Act expired under subsection 69 (2) if the application is made after the three-month period mentioned in subsection 69 (2) but within the two-year period after this Act comes into force.

(2) The Minister may waive the requirement for a report under section 9 for any application under subsection (1). Waiver of s. 9

(3) The Minister may issue a licence in respect of an application under subsection (1) whether or not all relevant zoning by-laws are complied with. *New.* Non-compliance with zoning by-laws

71.—(1) This Act and the regulations apply to every established pit and quarry in a part of Ontario designated under subsection 5 (2). Act applies to pits and quarries in newly designated areas

(2) The Minister may, in his or her absolute discretion, determine, in cases where doubt exists, whether a pit or quarry is an established pit or quarry. Determination by Minister in cases of doubt

(3) Despite subsection 57 (1), a person with an established pit or quarry in a part of Ontario designated under subsection 5 (2) may continue to operate the pit or quarry without a licence or permit until the six-month period next following the date of the designation expires. Right to operate for limited period without licence or permit

(4) Despite subsection 57 (1), a person who applies for a licence during the six-month period next following the day of the designation under subsection 5 (2), and, Right to operate for limited period without licence

- (a) who is not required by the Minister to refer a matter to the Divisional Court under subsection 13 (6) may operate an established pit or quarry without a licence subsequent to such six-month period until the licence is either issued or refused or the twelve-month period next following the day of the designation expires, whichever occurs first; or
- (b) who is required by the Minister to refer a matter to the Divisional Court under subsection 13 (6) may operate an established pit or quarry until the licence is either issued or refused.

(5) The Minister, if satisfied that the application under subsection (4) is in respect of an established pit or quarry and that the location of the land on which the pit or quarry is situated complies with all relevant zoning by-laws, shall issue a licence under this Act to the applicant even if the requirements of section 8 have not been met. Licence to be issued

When new
site plan
requirements
to be met

(6) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.



ss. 7 (3)
(a-c), 9,
11 (2-9), 12,
60 do not
apply

(7) Despite subsection (1), clauses 7 (3) (a), (b) and (c), section 9, subsections 11 (2) to (9), sections 12 and 60 do not apply to applications made under subsection (4).

Non-
application of
ss. 11 (2-9),
60 and
waiver of
s. 9

(8) Despite subsection (1), subsections 11 (2) to (9) and section 60 do not apply to an application for an established pit or quarry made during the two-year period next following the day of the designation.



Waiver

(9) The Minister may waive the requirement for a report under section 9 for any application under subsection (8).

Person
deemed
licensee from
date of
designation

(10) For the purposes of this Act and the regulations, every person who has been issued a licence for an established pit or quarry in a part of Ontario that is designated under subsection 5 (2) shall be deemed to be a licensee from the date of the designation. *New.*

Application
under
R.S.O. 1980,
cc. 378, 268,
39 deemed
application
under this
Act

72.—(1) If an application for a licence or permit to operate a pit or quarry has been made under and complies with the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* or a predecessor thereof but no licence or permit has been issued or refused by the Minister under one of those Acts before this Act comes into force, the application shall be deemed to be an application made under this Act.

Applicant
must comply
with this Act

(2) The applicant under an application referred to in subsection (1) shall comply under this Act with the requirements of,

- (a) section 7 within six months after this Act comes into force;
- (b) subsections 23 (3), (4) and (5) and subsection 24 (1) within six months after this Act comes into force; or
- (c) section 36 within ten months after this Act comes into force.

Minister may
refuse to
consider
application

(3) If, in the opinion of the Minister, the applicant fails to comply with the requirements of subsection (2), the Minister may refuse further consideration of the application.

(4) If an applicant complies with the requirements of subsection (2), a hearing pending before the Board or Commissioner or in respect of which the Board or Commissioner has not reported to the Minister respecting a matter referred to the Board or Commissioner under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act*, as the case may be, shall be deemed to be a hearing for the purposes of this Act. *New.*

Hearing
before the
Board

R.S.O. 1980,
cc. 378, 268,
39

73.—(1) Subject to subsection (2), despite the fact that a licence or permit has been issued, no person shall operate a quarry nearer to the natural edge of the Niagara escarpment than 200 metres measured horizontally.

Quarrying
near Niagara
escarpment

(2) No person holding a licence for a quarry under the *Pits and Quarries Control Act* when this Act comes into force and who is issued a licence for the quarry under this Act shall operate the quarry nearer to the natural edge of the Niagara escarpment than ninety metres measured horizontally.

Idem

(3) For the purposes of subsection (1) or (2), the natural edge of the Niagara escarpment is the natural edge determined by the Minister. *New.*

Determi-
nation of
natural edge

74. For the purposes of section 27 and subsection 69 (3), if the location of a pit or quarry for which a licence or wayside permit has been issued contravenes a zoning by-law, the licence or permit prevails and the by-law does not apply to the site. *New.*

Licence or
permit
prevails

75. For the purposes of this Act, aggregate that is not removed from the site as aggregate but is used on the site,

Aggregate
deemed
removed

- (a) in the manufacture of cement, concrete blocks, concrete pipes, bricks, asphalt, concrete mix or any other product; or
- (b) in the construction or maintenance of a structure or road, other than a road constructed primarily for the operation of a pit or quarry,

shall be deemed to have been removed from the site. *New.*

76.—(1) Every quarry permit issued under Part VII of the *Mining Act* and every licence issued under the *Beach Protection Act* that is subsisting when this Act comes into force continues in force until its expiry date or for a further twelve months, whichever occurs first.

Permits and
licences
under
R.S.O. 1980,
cc. 268, 39

Idem

(2) For the purpose of section 34, the holder of a permit or licence referred to in subsection (1) shall be deemed to be an aggregate permittee. *New.*

Repeals

77. The *Pits and Quarries Control Act*, being chapter 378 of the Revised Statutes of Ontario, 1980, the *Pits and Quarries Control Amendment Act, 1988*, being chapter 55, the *Beach Protection Act*, being chapter 39 of the Revised Statutes of Ontario, 1980, and Part VII of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, are repealed.

Commence-
ment

78. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

79. The short title of this Act is the *Aggregate Resources Act, 1989*.

Bill 170

*(Chapter 23
Statutes of Ontario, 1989)*

An Act to revise several Acts related to Aggregate Resources

The Hon. V. Kerrio
Minister of Natural Resources



<i>1st Reading</i>	June 27th, 1988
<i>2nd Reading</i>	March 1st, 1989
<i>3rd Reading</i>	June 19th, 1989
<i>Royal Assent</i>	June 20th, 1989

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

Bill 170

1989

**An Act to revise
several Acts related to Aggregate Resources**

TABLE OF CONTENTS

Section	Section
1. Definitions	30. Permit subject to conditions
PART I GENERAL	31. Expiration of permit
2. Purposes of Act	32. Suspension or revocation
3. Administration of Act	PART IV ABANDONED PITS AND QUARRIES
4. Designation of inspectors	33. Abandoned pits and quarries
5. Application	PART V AGGREGATE PERMITS
6. Act binds the Crown	34. Aggregate permits required
PART II LICENCES	35. Classes of aggregate permits
7. Licences required	36. Information required
8. Site plans for licences	37. Issue of aggregate permits
9. Report	38. Public authority
10. Zoning by-laws	39. Renewal of permits
11. Copies to municipalities	40. Duties of permittees
12. Matters to be considered by Minister	41. Transfer of permits
13. Issue of licences	42. Revocation, refusal to issue or transfer
14. Annual licence fees	43. Notice to applicant or permittee
15. Duties of licensees	44. Entitlement to hearing
16. Amendment of site plans	45. Suspension of permit
17. Inspection and review	46. Royalties
18. Transfer of licence	PART VI REHABILITATION
19. Surrender of licence	47. Application of Part
20. Refusal to issue and refusal to consent to transfer of licence	48. Duty to rehabilitate site
21. Hearing by Board	49. Waiver
22. Suspension of licence	50. Rehabilitation security payments by licensees
PART III WAYSIDE PERMITS	51. Rehabilitation security payments by permittees
23. Application for wayside permit	52. Rehabilitation security accounts
24. Permit fees	53. Partial refunds
25. Site plans for wayside permits	54. Refunds when rehabilitation fully performed
26. Matters to be considered by Minister	55. Entry upon site for rehabilitation
27. Issue of permits	
28. Copies to municipalities	
29. Duties of permittees	

Section

56. When rehabilitation not performed

PART VII

OFFENCES AND PENALTIES

57. Operation of pit or quarry without licence or permit
58. Penalty
59. Order for compliance

PART VIII

TERRITORY WITHOUT
MUNICIPAL ORGANIZATION

60. Notice of application for licence in area without municipal organization
61. Publication of notice

PART IX

MISCELLANEOUS

62. Record keeping
63. Restraining orders
64. Service of notices

Section

65. Joint effect
66. Act overrides municipal by-laws, etc.
67. Regulations
68. Relief from compliance
69. Pits and quarries under licence or permit under R.S.O. 1980, cc. 378, 268, 39
70. Non-application of s. 10, s. 11 (2-9) and waiver of s. 9
71. Act applies to pits and quarries in newly designated areas
72. Application under R.S.O. 1980, cc. 378, 268, 39 deemed application under this Act
73. Quarrying near Niagara escarpment
74. Licence or permit prevails
75. Aggregate deemed removed
76. Permits and licences under R.S.O. 1980, cc. 268, 39
77. Repeals
78. Commencement
79. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“aggregate” means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock other than metallic ores, or other prescribed material;

“Board” means the Ontario Municipal Board;

“Commissioner” means the Mining and Lands Commissioner;

“earth” does not include topsoil and peat;

“environment” means the air, land and water, or any combination or part thereof of the Province of Ontario;

“established pit or quarry” means a pit or quarry from which a substantial amount of aggregate has been excavated within the two-year period immediately before the part of Ontario in which the pit or quarry is located was designated under subsection 5 (2);

“excavate” includes the preparation of land for excavation and removal of hills, sand dunes, knolls, stones and rocks other than metallic ores from the general surface of the ground;

“final rehabilitation” means rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit performed after the excavation of aggregate and the progressive rehabilitation, if any, have been completed;

“highway” has the same meaning as in the *Public Transportation and Highway Improvement Act* and includes an unopened road allowance; R.S.O. 1980,
c. 421

“inspector” means any employee of the Ministry designated in writing by the Minister as an inspector for the purposes of this Act;

“land under water” means the bed, bank, beach, shore, bar, flat or water of or in any lake, river, stream or other waterbody or adjoining any channel or entrance thereto but does not include a waterbody resulting from excavation of aggregate below the water table;

“licence” means a licence for a pit or quarry issued under this Act;

“licensee” means a person who holds a licence;

“management” means the provision for the identification, orderly development and protection of the aggregate resources of Ontario;

“Minister” means the Minister of Natural Resources;

“Ministry” means the Ministry of Natural Resources;

“operate”, when used in relation to a pit or quarry, means “work” and includes all activities associated with a pit or quarry that are carried out on the site;

“permit” means an aggregate permit or a wayside permit issued under this Act;

“permittee” means a person who holds a permit;

“person” includes a public authority;

“pit” means land or land under water from which unconsolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

“prescribed” means prescribed by the regulations;

“progressive rehabilitation” means rehabilitation done sequentially, within a reasonable time, in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit during the period that aggregate is being excavated;

R.S.O. 1980,
c. 303 “public authority” means the Crown, a municipality, a local board as defined in the *Municipal Affairs Act* or a local roads board;

“quarry” means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

“regional municipality” includes a district municipality and The Municipality of Metropolitan Toronto;

“regulations” means the regulations made under this Act;

“rehabilitate” means to treat land from which aggregate has been excavated so that the use or condition of the land,

(a) is restored to its former use or condition, or

(b) is changed to another use or condition that is or will be compatible with the use of adjacent land;

“road” has the same meaning as highway;

“site” means the land or land under water to which a licence or permit or an application therefor relates;

“Treasurer” means the Treasurer of Ontario and Minister of Economics;

1983, c. 1 “zoning by-law” means a by-law passed under section 34 or 37 of the *Planning Act, 1983* or any predecessor thereof and includes an order made under clause 46 (1) (a) of the

Planning Act, 1983 or any predecessor thereof and a land use regulation made under subsection 4 (1) of the *Parkway Belt Planning and Development Act* or any predecessor thereof and includes zoning control by a development permit issued under the *Niagara Escarpment Planning and Development Act*. R.S.O. 1980, c. 378, s. 1, *amended*. 1983, c. 1
R.S.O. 1980, c. 368
R.S.O. 1980, c. 316

(2) The Minister may, in his or her absolute discretion, determine in cases where doubt exists, whether an excavation site is a pit or quarry. Determination by Minister of pit or quarry in cases of doubt

(3) The Minister, if of the opinion that the primary purpose of an excavation is not for the production of aggregate, may in his or her absolute discretion by order declare that the land or land under water on which the excavation is situate is not a pit or quarry for the purposes of this Act. Order that an excavation is not a pit or quarry

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed order under subsection (3), including reasons therefor, upon the clerk of the local municipality in which the excavation is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment. Notice to municipality

(5) The Minister may not issue the order until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. *New*. Delay in relief

PART I

GENERAL

2. The purposes of this Act are, Purposes of Act

- (a) to provide for the management of the aggregate resources of Ontario;
- (b) to control and regulate aggregate operations on Crown and private lands;
- (c) to require the rehabilitation of land from which aggregate has been excavated; and
- (d) to minimize adverse impact on the environment in respect of aggregate operations. *New*.

3.—(1) The Minister is responsible for the administration of this Act and the regulations. Administration of Act

Idem

(2) In administering this Act, the Minister may,

- (a) initiate research related to technical matters pertaining to,
 - (i) the aggregate industry, including the transportation of aggregate and the rehabilitation of pits and quarries,
 - (ii) underground mining of aggregate, and
 - (iii) aggregate excavation from beneath water;
- (b) initiate studies of geological deposits that may yield aggregate of commercial qualities and quantities;
- (c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;
- (d) collect, analyze and publish statistics related to the aggregate industry;
- (e) initiate studies related to the uses of aggregate and the economics and operations of the aggregate industry;
- (f) advise ministries and municipalities on planning matters related to aggregate;
- (g) initiate studies related to abandoned pits and quarries;
- (h) initiate studies on environmental and social matters related to pits and quarries;
- (i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;
- (j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries;
- (k) employ any person to perform work in connection with any matter mentioned in this Act; and
- (l) consult with ministries, municipalities and agencies.
New.

4.—(1) The Minister may designate in writing any employee of the Ministry as an inspector for the purposes of this Act. R.S.O. 1980, c. 378, s. 1 (b), *amended*. Designation of inspectors

(2) An inspector, for the purpose of carrying out assigned duties, Powers of inspectors

- (a) may enter, at any reasonable time, any land, vessel or business premises that is or appears to be used or has or appears to have been used in respect of a pit or quarry or any activity or use related to aggregate or rehabilitation;
- (b) may require the production of a licence, a permit, any record or document respecting aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof;
- (c) may, upon giving a receipt therefor, remove any licence, permit, record or document produced under clause (b) and make copies thereof; and
- (d) may, alone or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material. R.S.O. 1980, c. 378, s. 13 (1), *amended*.

(3) An inspector who makes a copy under clause (2) (c) shall do so with dispatch and shall promptly return the original licence, permit, record or document. Copies

(4) Any copy made as provided in clause (2) (b) or (c) and certified to be a true copy by the inspector who carried out the inspection is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original licence, permit, record or document and its contents. *New*. Idem

5.—(1) This Act and the regulations apply to, Application

- (a) all aggregate and topsoil that is the property of the Crown or that is on land the surface rights of which are the property of the Crown;
- (b) private land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or a predecessor thereof; R.S.O. 1980, c. 378

- (c) private land in parts of Ontario that are designated under subsection (2); and
- (d) all land under water. *New.*

Designation
of parts

(2) The Lieutenant Governor in Council may make regulations designating parts of Ontario for the purpose of clause (1) (c). R.S.O. 1980, c. 378, s. 2, *amended*.

Redesign-
ation of
designated
parts
R.S.O. 1980,
c. 378

(3) The Lieutenant Governor in Council may make regulations redesignating the parts of Ontario that have been designated under the *Pits and Quarries Control Act* or a predecessor thereof. *New.*

Act binds the
Crown

6. This Act binds the Crown except where it specifically states otherwise. *New.*

PART II

LICENCES

Licences
required

7.—(1) No person shall, in a part of Ontario designated under section 5, operate a pit or quarry on land that is not land under water and the surface rights of which are not the property of the Crown except under the authority of and in accordance with a licence.

Application
for licence

(2) Any person may apply to the Minister, on a form provided by the Minister,

- (a) for a Class A licence to excavate annually more than 20,000 tonnes of aggregate from a pit or quarry; or
- (b) for a Class B licence to excavate annually 20,000 tonnes or less of aggregate from a pit or quarry.

Idem

(3) Every application for a licence must be accompanied by,

- (a) ten copies of the site plan referred to in section 8;
- (b) if the application is for a Class A licence, ten copies of the report referred to in section 9;
- (c) the information referred to in section 10; and
- (d) the prescribed application fee. R.S.O. 1980, c. 378, s. 4, *amended*.

(4) The number of copies of a site plan or of a report that are required to be submitted under subsection (3) may be varied, in specific situations, by the Minister. Copies

(5) The Minister may require an applicant for a licence to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused. Additional information
New.

8.—(1) The site plan accompanying an application for a Class A licence must show, Site plans for licences

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and the use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location and type of existing and proposed fences;
- (h) the location of existing and proposed tree screens and the species, size and types of the trees;
- (i) the location, dimensions and design of earth berms;
- (j) any significant natural and man made features;
- (k) the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden and the location and size of proposed aggregate stockpile areas;
- (l) the topography of the site including existing and estimated final contours;

- (m) every existing and proposed entrance to and exit from the site;
- (n) all existing and proposed major roads on the site;
- (o) the water table and any existing surface water on and surrounding the site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters;
- (p) subject to available information, the location of water wells on and within 300 metres of the site;
- (q) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (r) the sequence and direction of operation of the pit or quarry;
- (s) the progressive rehabilitation and final rehabilitation plans; and
- (t) any other necessary information respecting the site. R.S.O. 1980, c. 378, s. 4 (2), *amended*.

Idem

(2) The information required under subsection (1) must be presented in at least three separate drawings under the headings,

- (a) Existing Features;
- (b) Operational Plan; and
- (c) Progressive Rehabilitation and Final Rehabilitation Plans.

Idem

(3) For the purpose of subsection (2), the drawings must be at a scale of 1:2000, 1:5000 or, in any particular case, at such other scale as the Minister may approve.

Site plan

(4) Every site plan accompanying an application for a Class A licence must be prepared under the direction of and certified by a professional engineer who is a member of the Association of Professional Engineers of Ontario, a land surveyor who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or any other qualified person approved in writing by the Minister. *New*.

(5) The site plan accompanying an application for a Class B licence must show, Site plans for
Class B
licences

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location and type of existing and proposed fences;
- (h) the location of existing and proposed tree screens and the species, size and types of the trees;
- (i) the location, dimensions and design of earth berms;
- (j) any significant natural and man made features;
- (k) the location and size of existing and proposed stock-piles of topsoil, subsoil and overburden and the location and size of proposed aggregate stockpile areas;
- (l) the existing and estimated final elevations of the site;
- (m) every existing and proposed entrance to and exit from the site;
- (n) any existing surface water on and surrounding the site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters;
- (o) subject to available information, the location of water wells on and within 300 metres of the site;

- (p) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (q) the sequence and direction of operation of the pit or quarry;
- (r) the progressive rehabilitation and final rehabilitation plans;
- (s) the approximate scale; and
- (t) any other necessary information respecting the site. R.S.O. 1980, c. 378, s. 4 (3), *amended*.

Signature

(6) Every site plan accompanying an application for a Class B licence must be in a style and manner acceptable to the Minister and must be signed by the applicant.

Plans
property of
the Crown

(7) Every site plan submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. *New*.

Report

9.—(1) The report accompanying an application for a Class A licence must be signed by the author and must provide information for evaluation by the Minister,

- (a) as to the suitability of the progressive rehabilitation and final rehabilitation plans having regard to the adjacent lands;
- (b) describing the environment that may be expected to be affected by the pit or quarry operation and any proposed remedial measures that are considered necessary;
- (c) describing the social and economic effects that may be expected as a result of the pit or quarry operation;
- (d) respecting the quality and quantity of the aggregate on the site;
- (e) as to the main haulage routes and proposed truck traffic to and from the site;
- (f) supplementing clause 8 (1) (o);
- (g) describing the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden

and the location and size of proposed aggregate stockpile areas;

- (h) respecting any planning and land use considerations;
- (i) setting out the reasons for any conclusions in the report; and
- (j) any other necessary information respecting the site.

(2) Every report submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. *New.*

Reports
property of
the Crown

10. An applicant for a licence must furnish information satisfactory to the Minister describing the zoning by-laws applicable to the site and adjacent lands. *New.*

Zoning
by-laws

11.—(1) The Minister, upon being satisfied that an application for a licence and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information and comment.

Copies to
municipalities

(2) On the day that the Minister effects service under subsection (1), the Minister shall serve the applicant with notice that the applicant must cause notice of the application,

Notice by
Minister

- (a) to be published in the prescribed form in two successive issues of a newspaper or newspapers having general circulation in the locality in which the site is located; and
- (b) to be given in signs placed in the prescribed manner on the site.

(3) The applicant shall notify the Minister when the publication of the notice and the placement of the signs have been completed.

Notice of
publication

(4) Any person may serve upon the Minister, within forty-five days after the second publication of the notice under clause (2) (a) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor.

Notice of
objection

Idem (5) Upon receipt of a notice under subsection (4), the Minister shall provide the applicant with a copy thereof. *New.*

Notice requiring hearing (6) Any person who has served notice under subsection (4) may, in addition, serve upon the Minister, within the period provided under subsection (4), a notice that the person requires a hearing of the matter before the Board.

Reference to Board for a hearing (7) Upon receipt of a notice under subsection (6) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (3), *amended.*

Idem (8) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), *amended.*

What Board may consider at one hearing 1983, c. 1 (9) The Board may consider an application for an amendment to any relevant planning matter referred to it under the *Planning Act, 1983* and an application referred to it under subsection (7) or (8) at the same hearing. *New.*

Matters to be considered by Minister **12.** The Minister in considering whether to issue or refuse a licence shall have regard to,

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by the municipality in which the site is located;
- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources;
- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;

- (i) the quality and quantity of the aggregate on the site;
- (j) the recommendation of the Board under section 21, if such a recommendation is made; and
- (k) such other matters as are considered appropriate.
R.S.O. 1980, c. 378, s. 6 (1), *amended*.

13.—(1) The Minister may issue a licence, subject to such conditions as the Minister considers necessary. R.S.O. 1980, c. 378, s. 6 (4), *amended*. Issue of licences

(2) Subject to section 20, the Minister may, at any time, add a condition to a licence or rescind or vary a condition of a licence. Changes of conditions

(3) A licensee and any municipality served with notice under clause 20 (4) (a) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed. No action until 30 days elapsed after notice by Minister

(4) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and if the licensee waives the right under subsection 20 (6) to require a hearing. Exception

(5) The Minister may, subject to subsections 69 (3) and 70 (3), issue a licence only if the site complies with all relevant zoning by-laws. Zoning by-laws

(6) The Minister, if in doubt as to whether there is compliance with a zoning by-law, may require the applicant to refer the matter to the Divisional Court for a declaratory judgment on the matter. Reference to court

(7) The Minister, on issuing a licence, shall serve a copy of it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New*. Copies to municipalities

14.—(1) Every licensee shall pay to the Treasurer an annual licence fee, at a time specified by the Minister, in an amount equal to the application fee paid for the licence or calculated by multiplying the number of tonnes of aggregate removed from the site during the previous year by the prescribed rate per tonne, whichever is greater. Annual licence fees

- Revocation (2) If the required licence fee is not paid, the Minister may revoke the licence.
- No notice or hearing (3) Subsections 20 (3), (5) and (6) do not apply to a licence revoked under subsection (2).
- Disbursal of annual licence fees (4) The prescribed percentage of the total of the annual licence fees collected shall be disbursed to such municipalities and in such amounts, manner and for such purposes as are prescribed.
- Rehabilitation of abandoned pits and quarries (5) The prescribed percentage of the total of the annual licence fees collected shall be set apart for the purposes mentioned in subsection 33 (2).
- Unpaid licence fees (6) Any unpaid annual licence fee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.*
- Duties of licensees **15.** Every licensee shall operate the licensee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the licence. R.S.O. 1980, c. 378, s. 3, s.4 (4), *part, amended.*
- Amendment of site plans **16.—**(1) Subject to section 20, the Minister may at any time require a licensee to amend the site plan. *New.*
- Idem (2) A licensee may amend the site plan at any time with the approval in writing of the Minister. R.S.O. 1980, c. 378, s. 4 (4), *part, amended.*
- Idem (3) The Minister may require any amended site plan to be prepared under the direction of and certified by a person referred to in subsection 8 (4).
- No action until 30 days elapsed after notice by Minister (4) A licensee and any municipality served with notice under clause 20 (4) (b) or (c) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed.
- Exception (5) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and, in the case of a proposal to require the amendment of a site plan, if the licensee waives the right under subsection 20 (6) to require a hearing. *New.*
- Inspection and review **17.—**(1) For the purpose of assessing the licensee's compliance with this Act, the regulations, the site plan and the con-

ditions of the relevant licence, the Minister, at least once a year,

- (a) shall cause each site to be inspected;
- (b) shall cause a review of each site plan and the conditions of each licence; and
- (c) shall consider all comments provided by the municipalities in which the site is located concerning the licensee's compliance with this Act, the regulations, the site plan and the conditions of the relevant licence. R.S.O. 1980, c. 378, s. 7 (1), *amended*.

(2) An inspector, upon completing an inspection of a site, shall prepare a written report that shall include a description of any practice or procedure of the licensee or any matter related to the site that, in the opinion of the inspector, is a contravention of this Act, the regulations, the site plan or the conditions of the relevant licence.

Written
report by
inspector

(3) Any person may, during normal office hours of the Ministry, examine any report made under subsection (2) and, upon a request therefor and payment of a reasonable fee, such person shall be provided with a copy of the report or extracts therefrom.

Copy of
report

(4) For the purpose of each fourth review under subsection (1), the Minister shall, where applicable, request in writing that the council of the regional municipality or county, as the case may be, and the council of the local municipality in which each pit or quarry is located send to him or her, within forty-five days after receiving the request, their comments on each pit or quarry concerning the licensee's compliance with this Act, the regulations, the site plan and the conditions of the relevant licence.

Municipal
comments
every four
years

(5) If a copy of a site plan is served upon the Minister under subsection 69 (5), each fourth review shall be calculated from the year in which service was made upon the Minister.
New.

Idem

18.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a licence. R.S.O. 1980, c. 378, s.14, *amended*.

Transfer of
licence

(2) Any municipality served with notice under clause 20 (4) (d) may provide the Minister with comments on compliance with this Act, the regulations, the site plan and the conditions of the licence within thirty days after service of the

Idem

notice and the Minister shall take no action until the thirty days have elapsed or comments have been received, whichever occurs first.

Transfer of
rehabilitation
security

(3) When a licence is transferred, any sum in the rehabilitation security account of the transferor shall be transferred to an account in the name of the transferee and the right, title and interest in that sum vest in the transferee.

Copy to
municipalities

(4) When a licence is transferred, the Minister shall, where applicable, serve a copy of the licence in the name of the transferee upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Death of
licensee

(5) On the death of an individual who holds a licence as a sole proprietor, the personal representative of the individual may continue to operate the pit or quarry for a period of one year as if the licence were issued to the personal representative.

Idem

(6) A personal representative who operates a pit or quarry under subsection (5) shall notify the Minister of the death of the licensee within one month thereafter. *New.*

Surrender of
licence

19.—(1) Upon being satisfied that a licensee's annual licence fee and rehabilitation security, whenever payable, have been paid before the licensee applies to surrender a licence and that the rehabilitation has been performed in accordance with this Act, the regulations, the site plan and the conditions of the licence, the Minister may accept the surrender of the licence.

Disposition
of surplus
rehabilitation
moneys

(2) Any sum remaining in a former licensee's rehabilitation security account when the Minister accepts surrender of the licence shall be paid by the Treasurer to the former licensee. *New.*

Refusal to
issue and
refusal to
consent to
transfer of
licence

20.—(1) The Minister may refuse to issue or refuse to consent to the transfer of a licence. R.S.O. 1980, c. 378, s. 6 (1), *part, amended.*

Revocation
of licences

(2) The Minister may revoke a licence for any contravention of this Act, the regulations, the site plan or the conditions of the licence. R.S.O. 1980, c. 378, s. 7 (2), *amended.*

Notice to
licensee

(3) If the Minister,

- (a) refuses to issue a licence and the application has not been referred to the Board for a hearing under section 11 or 60;
- (b) attaches a condition to a licence issued under subsection 69 (3) that adds, rescinds or varies a condition of the licence it replaces;
- (c) refuses to consent to the transfer of a licence; or
- (d) revokes a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the applicant or licensee.

(4) If the Minister,

Idem

- (a) proposes to add a condition to a licence after its issue or to rescind or vary a condition of a licence;
- (b) proposes to require the amendment of a site plan;
- (c) proposes to approve the amendment of a site plan;
or
- (d) proposes to consent to the transfer of a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the licensee and where, in the opinion of the Minister, the matter is of importance and it is appropriate to do so, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

(5) Any action of the Minister under clause (3) (a), (b), (c) or (d) is effective as soon as the required notice is served upon the applicant or licensee and, despite the fact that the applicant or licensee requires a hearing by the Board, remains effective until the Minister takes action under subsection 21 (4).

Time of
taking effect

(6) An applicant or licensee who is served with a notice under subsection (3) or (4) is entitled to a hearing by the Board if the applicant or licensee, within thirty days after being served, serves the Minister with a notice that a hearing is required.

Entitlement
to hearing

(7) The Minister, if served with a notice under subsection (6), shall, within thirty days after being served, refer the mat-

Hearing

ter to the Board for a hearing. R.S.O. 1980, c. 378, s. 8, *amended*.

Where no
hearing

(8) If the Minister proposes an action referred to in clause (4) (a) or (b) and the applicant or licensee does not require a hearing under subsection (6), the Minister may carry out the proposal. *New*.

Hearing by
Board

21.—(1) The Board shall hold a hearing on a matter referred to it under section 11, 20 or 60, and the applicant or licensee, the Minister and such other persons as the Board specifies shall be parties to the hearing.

Procedure

R.S.O. 1980,
c. 347

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the *Ontario Municipal Board Act*, except that section 94 of that Act does not apply.

Report of
Board

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister setting out its findings and its recommendations as to the issue involved and shall send a copy of its report to each party to the hearing.

Decision of
Minister

(4) After considering the report of the Board, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision and the reasons therefor upon the other parties to the hearing and upon any municipality served under subsection 11 (1) or subsection 20 (4), as the case may be.

Decision final

(5) The decision of the Minister is final. R.S.O. 1980, c. 378, s. 9, *amended*.

Suspension of
licence

22.—(1) The Minister may suspend a licence for any period of time, not exceeding six months, for any contravention of this Act, the regulations, the site plan or the conditions of the licence, effective as soon as the notice mentioned in subsection (2) is served upon the licensee. R.S.O. 1980, c. 378, s. 8 (4), *amended*.

Notice of
suspension

(2) Notice of suspension of a licence, including the reasons therefor, shall be served upon the licensee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Further
particulars of
notice

(3) The notice mentioned in subsection (2) shall inform the licensee of the period of the suspension, of the action the licensee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the

licensee has complied with the notice to the satisfaction of the Minister, and that, if the licensee does not comply with the notice within the period of the suspension, the Minister may revoke the licence.

(4) If a licensee whose licence has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the licence, in which case subsections 20 (3), (5) and (6) apply. *New.* Revocation

PART III

WAYSIDE PERMITS

23.—(1) Any public authority, or any person who has a contract with a public authority, that requires aggregate for a temporary project from a source in a part of Ontario designated under section 5 that is not under licence or permit may apply to the Minister, on a form provided by the Minister, for a wayside permit to operate a pit or quarry. Application for wayside permit

(2) Subsection 7 (1) does not apply to a person who has a wayside permit. Licence not required

(3) An application under subsection (1) shall not be considered unless, in the Minister's opinion, Limitation

(a) the aggregate is required,

(i) for a project of road construction or road maintenance, from outside the limits of the right of way of the highway, or

(ii) for an urgent project for which no alternative source of aggregate under licence or permit is readily available in the vicinity;

(b) the aggregate is necessary for the purposes of a contract or project; and

(c) adequate provision can be made as conditions of the permit to ensure a method of operation and rehabilitation so as to cause only a temporary inconvenience to the public.

(4) Every application for a wayside permit shall be accompanied by five copies of the site plan referred to in section 25. Requirements for permit

(5) The Minister may require an applicant for a wayside permit to furnish additional information in such form and Additional information

manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused.

Copies to
municipalities

(6) The Minister, upon being satisfied that an application for a wayside permit and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

Permit fees

24.—(1) Every applicant for a wayside permit shall, before the permit is issued, pay to the Treasurer a prescribed permit fee or a permit fee as calculated by multiplying the maximum number of tonnes that the permit authorizes by the prescribed rate per tonne of aggregate, whichever is the greater.

Refund of
fee

(2) If a wayside permit expires or is revoked, the permittee is entitled to a refund of any remaining balance of the permit fee calculated by multiplying the number of tonnes that the permit authorized that were not removed from the site by the prescribed rate per tonne of aggregate applicable at the date the permit was issued.

Disbursal of
permit fees

(3) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be disbursed to such municipalities and in such amounts, manner and for such purposes as are prescribed.

Rehabili-
tation of
abandoned
pits and
quarries

(4) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be set apart for the purposes mentioned in subsection 33 (2).

Non-
refundable
fee

(5) Despite subsection (2), the prescribed permit fee is not refundable. *New.*

Site plans for
wayside
permits

25.—(1) The site plan accompanying an application for a wayside permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.

Idem

(2) The site plan accompanying an application for a wayside permit must show,

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;

- (c) the public authority that is a party to the contract and the number of the project;
- (d) the location of the project;
- (e) the name and address of the owner of the site;
- (f) the shape, dimensions and hectarage of the site and the area to be excavated;
- (g) the existing and estimated final elevations of the site;
- (h) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
- (i) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (j) any significant natural and man made features;
- (k) every entrance to and exit from the site;
- (l) any existing and proposed drainage facilities on the site and points of discharge to surface waters;
- (m) subject to available information, the location of water wells on and within 300 metres of the site;
- (n) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (o) the sequence and direction of operation of the pit or quarry;
- (p) the final rehabilitation plan;
- (q) the approximate scale; and
- (r) any other necessary information respecting the site.

(3) Every site plan submitted with an application under this section becomes the property of the Crown upon the permit applied for being issued. *New.*

Property of
the Crown

26. The Minister in considering whether to issue or refuse a wayside permit shall have regard to,

Matters to be
considered by
Minister

- (a) any comments provided by the municipalities in which the site is located;
- (b) the effect of the operation of the pit or quarry on the environment and nearby communities;
- (c) the amount of aggregate estimated to be removed from the site;
- (d) the estimated cost of the aggregate for the project as compared with that from any alternative source of supply;
- (e) the proper management of the aggregate resources of the area;
- (f) any previous wayside permits for the site and adjacent lands;
- (g) the rehabilitation of the site and its compatibility with adjacent land;
- (h) any possible effects on ground and surface water resources;
- (i) any proposed aesthetic improvements to the landscape;
- (j) the main haulage routes and proposed truck traffic to and from the site; and
- (k) such other matters as are considered appropriate. R.S.O. 1980, c. 378, s. 12 (2), *amended*.

Issue of
permits

27.—(1) The Minister may in his or her discretion issue a wayside permit whether or not the location of the site complies with all relevant zoning by-laws. R.S.O. 1980, c. 378, s. 12 (3), *amended*.

Limitation

(2) No wayside permit shall be issued if the issuance will result in more than one wayside permit for one site at any time.

Niagara
Escarpment
Planning
Area
R.S.O. 1980,
c. 316

(3) Despite subsection (1), no wayside permit shall be issued for a site in the Niagara Escarpment Planning Area, as defined in the *Niagara Escarpment Planning and Development Act*, unless the location of the site complies with a development permit issued under that Act.

(4) Despite subsection (1), no wayside permit shall be issued for a site zoned and developed for residential use or zoned as an area having particular environmental sensitivity. Exception

(5) The Lieutenant Governor in Council may make regulations governing and limiting the issuance of wayside permits. Regulations limiting issuance
New.

28. The Minister, on issuing a wayside permit, shall, where applicable, serve a copy of the wayside permit upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. Copies to municipalities
New.

29. Every wayside permittee shall operate the permittee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the permit. Duties of permittees
R.S.O. 1980, c. 378, s. 3, s. 4 (4), *part, amended.*

30.—(1) The Minister may in his or her discretion issue a wayside permit subject to such conditions as are considered necessary, including conditions that set out the maximum amount of aggregate that may be removed, the maximum area that may be excavated and, subject to section 31, the duration of the permit. Permit subject to conditions

(2) The Minister may, at any time, add a condition to a wayside permit or rescind or vary any condition of a wayside permit. Variation of conditions

(3) The Minister, after taking any action under subsection (2), shall serve notice thereof, including reasons therefor, upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. Notice to municipalities
New.

31. A wayside permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. Expiration of permit
R.S.O. 1980, c. 378, s. 12 (4), *amended.*

32.—(1) The Minister may, at any time, suspend or revoke a wayside permit for any contravention of this Act, the regulations, the site plan or the conditions of the permit, effective as soon as the notice mentioned in subsection (2) is served upon the permittee. Suspension or revocation
R.S.O. 1980, c. 378, s. 12 (5), *amended.*

Notice to
municipalities

(2) Notice of suspension or revocation of a permit, including reasons therefor, shall be served upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Suspension—
duration

(3) The Minister may suspend a wayside permit for any period of time not exceeding six months.

Suspension—
further
particulars of
notice

(4) The notice mentioned in subsection (2) shall inform the permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit.

Suspension—
consequence
of no
remedial
action

(5) If a permittee whose permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the permit.
New.

PART IV

ABANDONED PITS AND QUARRIES

Abandoned
pits and
quarries

33.—(1) The Minister may declare any pit or quarry for which a licence or wayside permit is not in force to be abandoned,

- (a) after receiving the consent of the person assessed for the land on which the pit or quarry is located; and
- (b) where applicable, after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located.

Disbursal for
rehabilitation

(2) The Minister may disburse any portion of the fees set apart under subsections 14 (5) and 24 (4) for,

- (a) pre-program surveys or studies respecting the location, condition and rehabilitation of pits and quarries, for which a licence or wayside permit is not in force; and
- (b) the rehabilitation of abandoned pits and quarries.
New.

PART V

AGGREGATE PERMITS

34.—(1) No person shall, except under the authority of and in accordance with an aggregate permit, operate a pit or quarry, Aggregate permits required

- (a) to excavate aggregate or topsoil that is on land the surface rights of which are the property of the Crown;
- (b) to excavate aggregate or topsoil that is the property of the Crown from land under water;
- (c) to excavate aggregate or topsoil that is the property of the Crown in a part of Ontario that is not designated under section 5; or
- (d) to excavate aggregate that is not the property of the Crown from land under water.

(2) The excavation of aggregate or topsoil resulting from non-aggregate mineral extraction from a placer deposit is considered to be the operation of a pit for the purpose of subsection (1). Idem

(3) The removal from the site of stockpiled aggregate or topsoil that is the property of the Crown and was excavated under an aggregate permit is considered to be the operation of a pit for the purpose of subsection (1). Idem

(4) Any person may apply to the Minister, on a form provided by the Minister, for an aggregate permit to operate a pit or quarry. Applications for aggregate permits

(5) A person who, except for this subsection, would apply for an aggregate permit shall apply for a licence if, When a licence is required instead of an aggregate permit

- (a) the site is in a part of Ontario designated under section 5;
- (b) the site is partly on land the surface rights of which are the property of the Crown and partly on land the surface rights of which are not the property of the Crown; and
- (c) the Minister directs the person in writing to apply for a licence. *New.*

Classes of
aggregate
permits

35.—(1) A commercial aggregate permit authorizes the excavation of aggregate and topsoil to be used for resale or commercial purposes or in conjunction with a commercial undertaking.

Idem

(2) A public authority aggregate permit authorizes a public authority to excavate aggregate and topsoil for use by the public authority but not for resale or commercial purposes.

Idem

(3) A public authority aggregate permit authorizes a person who has a contract with a public authority to excavate aggregate and topsoil for use by that person in a project of the public authority but not for resale or commercial purposes.

Idem

(4) A personal aggregate permit authorizes an individual or a group of individuals to excavate aggregate and topsoil for use by the individual or group of individuals but not for resale or commercial purposes. *New.*

Information
required

36.—(1) Every application for an aggregate permit must be accompanied by,

(a) a site plan;

(b) where applicable, information on any aquatic biological resources that may be affected by the operation of the pit or quarry and measures proposed to minimize impacts on and to restore aquatic biological habitat on the site; and

(c) such additional information in such form and manner as the Minister considers necessary.

Idem

(2) Until the information mentioned in subsection (1) is furnished to the Minister's satisfaction, further consideration of the application may be refused.

Idem

(3) The Minister may waive the requirement for a site plan for an application for a personal aggregate permit.

Site plans

(4) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry that is entirely on dry land must show,

(a) the location of the site;

(b) existing conditions, including the shape, dimensions and area to be excavated, topography and land use on the site and within 150 metres of the site;

- (c) location, dimensions and use of any buildings or other structures existing or proposed to be erected on the site or existing within 150 metres of the site;
- (d) method and phasing of the operation;
- (e) estimated final elevations;
- (f) proposed progressive rehabilitation and final rehabilitation plans;
- (g) existing and proposed drainage and points of discharge to surface water;
- (h) location and size of existing and proposed stockpiles of overburden and soil and location and size of proposed aggregate stockpile areas;
- (i) location and type of fences;
- (j) all existing and proposed entrances to and exits from the site;
- (k) location of the excavation setback limits; and
- (l) the approximate scale.

(5) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located entirely on land covered by water must show, ^{Idem}

- (a) the location of the proposed operation and distance from the nearest shore and existing shoreline land uses that may be affected by the operation;
- (b) as nearly as possible the extent and nature of the aggregate deposit to be excavated;
- (c) the depth of the water covering the deposit; and
- (d) the proposed method of operation.

(6) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located partly on dry land and partly on land covered by water must show the information required in subsection (4) in respect of the dry land and the information required in subsection (5) in respect of the land covered by water. ^{Idem}

- Idem (7) Every site plan accompanying an application for an aggregate permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.
- Waiver, etc.,
by Minister (8) The Minister may require additional information or may waive, vary or reduce the information required under subsection (4), (5) or (6).
- Plans
property of
the Crown (9) Every site plan submitted with an application under this section becomes the property of the Crown upon the aggregate permit applied for being issued. *New.*
- Issue of
aggregate
permits **37.**—(1) The Minister may issue an aggregate permit for a fixed period of not more than five years, subject to such conditions as are considered necessary.
- Idem (2) The Minister, on being satisfied that an applicant for an aggregate permit requires the use of aggregate in conjunction with the operation of a producing mine and that use will likely extend beyond five years, may issue the permit for a term exceeding five years.
- Permit fees (3) Every applicant for an aggregate permit shall, before the permit is issued, pay to the Treasurer a permit fee as prescribed.
- Limitation (4) No aggregate permit shall be issued for sand and gravel where the sand and gravel has been included in a mining claim as a placer deposit under the *Mining Act* until the non-aggregate mineral has been removed from the placer deposit.
- R.S.O. 1980,
c. 268
- Conditions (5) An aggregate permit issued in respect of a pit or quarry located entirely or partly on land covered by water that is not the result of excavation below the water table shall contain such conditions as are considered necessary to minimize adverse impacts on or to restore aquatic biological habitat on the site.
- Changes in
conditions (6) The Minister may at any time add a condition to an aggregate permit or rescind or vary any condition of such a permit.
- Amendment
of site plans (7) Subject to sections 43 and 44, the Minister may at any time require an aggregate permittee to amend the site plan.
- Idem (8) An aggregate permittee may amend the site plan at any time with the approval in writing of the Minister. *New.*
- Public
authority **38.** The Minister, if of the opinion that it is in the public interest, may authorize a public authority with a project that

requires aggregate or topsoil or any person who has a contract with a public authority for such a project to excavate and remove undisturbed aggregate or topsoil in the ground that is the property of the Crown from a site that is subject to an aggregate permit. *New.*

39.—(1) Any person who holds a commercial or public authority aggregate permit may, before the expiry of the permit, apply to the Minister for another aggregate permit for the same site to come into effect upon the expiry of the previous permit. *New.*

Renewal of permits

(2) If another aggregate permit is issued for the same site, the new permit may cover a smaller area than the previous permit covered and contain different conditions than did the previous permit and the Minister may require an amendment to the site plan that accompanied the previous permit. *New.*

Change in area, conditions and site plan

40. Every aggregate permittee shall carry on the operation in accordance with this Act, the regulations, the site plan, if any, and the conditions of the permit. *New.*

Duties of permittees

41.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a commercial aggregate permit.

Transfer of permits

(2) A personal or public authority aggregate permit is not transferable. *New.*

Idem

42. The Minister may,

Revocation, refusal to issue or transfer

- (a) refuse to issue an aggregate permit under section 37 or 39;
- (b) refuse to consent to the transfer of an aggregate permit; or
- (c) revoke an aggregate permit,

if,

- (d) the Minister considers the issuance, transfer or continuation of the permit to be contrary to the public interest;
- (e) in the opinion of the Minister, a substantial amount of aggregate or topsoil has not been removed from the site under the permit during the previous twelve months; or

- (f) the permittee has contravened any provision of this Act, the regulations, a site plan or any of the conditions to which the permit is subject. *New.*

Notice to
applicant or
permittee

43.—(1) If the Minister,

- (a) refuses to issue an aggregate permit to excavate aggregate or topsoil that is not the property of the Crown;
- (b) revokes an aggregate permit;
- (c) refuses to issue another aggregate permit;
- (d) proposes to issue another aggregate permit for a smaller area or with different conditions or site plan from the previous permit;
- (e) proposes to add, rescind or vary a condition of an aggregate permit;
- (f) attaches a condition to an aggregate permit issued under subsection 69 (12) that adds, rescinds or varies a condition of the permit or licence it replaces; or
- (g) proposes to require the amendment of a site plan,

the Minister shall serve forthwith notice thereof including the reasons therefor upon the applicant or permittee. R.S.O. 1980, c. 268, s. 119 (1), *part, amended.*

Time of
taking effect

- (2) Any action of the Minister under clause (1) (a), (b), (c) or (f) is effective as soon as the notice is served upon the applicant or permittee and, despite the fact that the applicant or permittee requires a hearing by the Commissioner, remains effective until the Minister takes action under subsection 44 (5).

No action
until 30 days
elapsed

- (3) The Minister shall take no action proposed under clause (1) (d), (e), (f) or (g) until the thirty days referred to in subsection 44 (1) have elapsed.

Where no
hearing

- (4) The Minister may carry out a proposal under clause (1) (d), (e), (f) or (g) if the proposal is not referred to the Commissioner. *New.*

Entitlement
to hearing

- 44.—(1)** An applicant or aggregate permittee who is served with a notice mentioned in subsection 43 (1) is entitled to a hearing by the Commissioner if the applicant or permit-

tee, within thirty days after being served, serves the Minister with a notice that a hearing is required.

(2) The Minister, if served with a notice under subsection (1), shall, within thirty days after being served, refer the matter to the Commissioner for a hearing. Hearing

(3) The Commissioner shall hold a hearing on a matter referred under subsection (2) and, after the hearing, make a recommendation to the Minister. Recommendation by Commissioner

(4) The Commissioner shall specify the parties to the hearing. R.S.O. 1980, c. 268, s. 119 (2, 4), *amended*. Idem

(5) After considering the recommendation of the Commissioner, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision on the parties to the hearing. Decision by Minister

(6) The decision of the Minister is final. *New*. Decision final

45.—(1) The Minister may suspend an aggregate permit for any period of time not exceeding six months, Suspension of permit

(a) for any contravention of this Act, the regulations, the site plan or the conditions of the permit; or

(b) if, in the opinion of the Minister, the continuation of the operation under the permit will likely cause damage to property or is contrary to the public interest. R.S.O. 1980, c. 39, s. 4 (7), *part, amended*.

(2) The suspension shall be effective as soon as the required notice is served upon the permittee. *New*. Time of taking effect

(3) Notice of a suspension of an aggregate permit, including the reasons therefor, shall be served upon the permittee. R.S.O. 1980, c. 39, s. 4 (7), *part, amended*. Notice of suspension

(4) The notice of suspension shall inform the aggregate permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit. Further particulars of notice

Revocation

(5) If a permittee whose aggregate permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the aggregate permit, in which case sections 43 and 44 apply. *New.*

Royalties

46.—(1) The Minister shall determine the royalty per tonne that each aggregate permittee removing from the site aggregate or topsoil that is property of the Crown must pay, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the aggregate or topsoil and its intended use.

Returns and
payment

(2) Every aggregate permittee shall make a return, when required by the Minister, showing the quantity of material removed from the site and, at the same time, enclose the required royalty payment payable to the Treasurer.

Security or
deposit

(3) The Minister may require an aggregate permittee to give, in an amount determined by the Minister, security of the prescribed kind or a deposit for the payment of any royalty that is due or that may become due under subsection (1).

Recovery of
royalties in
default

(4) The amount of a default in the payment of a royalty under this section may be recovered by the Crown from any security given under subsection (3) or as a debt due to the Crown in any court of competent jurisdiction.

Exemption
from royalty
payment

(5) No royalty is payable by an aggregate permittee,

- (a) who is exempted from payment by the Minister; or
- (b) who belongs to a class of permittees exempted from payment by the regulations.

Licensee
removing
Crown
aggregate or
topsoil pays
royalties

(6) Subsections (1) to (5) apply to a licensee who removes from the site aggregate or topsoil that is the property of the Crown as if the references to "aggregate permittee" were references to "licensee". *New.*

PART VI

REHABILITATION

Application
of Part

47. This Part does not apply to a pit or quarry or part thereof that is covered by water that is not the result of excavation of aggregate below the water table. *New.*

48.—(1) Every licensee and every permittee shall perform progressive rehabilitation and final rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister.

Duty to rehabilitate site

(2) The Minister, upon being satisfied that a licensee, a permittee or former permittee has not performed adequate progressive rehabilitation on the site, may order the licensee, permittee or former permittee, as the case may be, to perform within a specified period of time such progressive rehabilitation as the Minister considers necessary and the licensee, permittee or former permittee shall comply with the order.

Minister's order requiring progressive rehabilitation

49. The Minister may waive or reduce the rehabilitation requirements, in respect of excavation of aggregate that is the property of the Crown, if, in the opinion of the Minister, to do so is not contrary to the public interest. *New.*

Waiver

50.—(1) Every licensee shall pay to the Treasurer security for the rehabilitation of the site at the prescribed time and in the prescribed amount and manner. R.S.O. 1980, c. 378, s. 11 (1), *amended.*

Rehabilitation security payments by licensees

(2) Any security for the rehabilitation of the site not paid by a licensee or former licensee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.*

Recovery of amount not paid

51.—(1) Every person who applies for a permit must, before the permit is issued, pay to the Treasurer security for the rehabilitation of the site in the prescribed amount and manner.

Rehabilitation security payments by permittees

(2) Despite subsection (1), the Minister may, in the case of an aggregate permit, waive the payment, in advance, of the security in which event security shall be paid at the prescribed time.

Waiver

(3) The Minister may waive any security required under this section if the Minister does not consider it to be necessary or in the public interest.

Idem

(4) Any security for the rehabilitation of a site not paid by a permittee or former permittee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. *New.*

Recovery of amount not paid

Rehabilitation security accounts

52.—(1) Sums paid by a licensee or permittee under section 50 or 51 shall be held in an account in that person's name and shall be paid out in accordance with the regulations.

Interest payable

(2) Sums paid by a licensee or permittee under section 50 or 51 earn interest at the prescribed rate.

Interest deemed security

(3) Interest earned under subsection (2) is part of the rehabilitation security. *New.*

Partial refunds

53. Every licensee or permittee who submits proof, satisfactory to the Minister, of progressive rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund out of the rehabilitation security account in accordance with the regulations. *New.*

Refunds when rehabilitation fully performed

54. Every licensee, permittee, former licensee or former permittee who has submitted proof, satisfactory to the Minister, of final rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund of the total sum to that person's credit in the rehabilitation security account. *New.*

Entry upon site for rehabilitation

55.—(1) A licensee, permittee, former licensee or former permittee who does not, without this subsection, have the right to enter upon a site not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit may enter upon the site and perform such rehabilitation as the Minister considers necessary.

Refunds

(2) Rehabilitation performed under subsection (1) is final rehabilitation for the purpose of section 54. *New.*

When rehabilitation not performed

56.—(1) The Minister or a person authorized in writing by the Minister may enter upon a site in respect of which a licence or permit was revoked or expired and not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister and may perform such rehabilitation as the Minister considers necessary.

Recovery of cost

(2) The cost of rehabilitation performed under subsection (1) is a debt due to the Crown by the former licensee or former permittee and shall be paid by the Treasurer out of the former licensee's or former permittee's rehabilitation security account. R.S.O. 1980, c. 378, s. 11, *amended.*

Disposition of surplus

(3) Any sum remaining to the credit of the former licensee or former permittee in that person's rehabilitation security

account after the cost of rehabilitation performed under subsection (1) has been paid out shall be paid by the Treasurer to that person.

(4) If a sum to the credit of a former licensee or former permittee in the rehabilitation security account is insufficient to defray the cost of rehabilitation, the amount of the deficiency is a debt due to the Crown by the former licensee or former permittee and is recoverable by the Crown in any court of competent jurisdiction. *New.*

Recovery of
deficiency

PART VII

OFFENCES AND PENALTIES

57.—(1) Every person who operates a pit or quarry except under the authority of a licence or permit is guilty of an offence. R.S.O. 1980, c. 378, s. 4 (1), *amended.*

Operation of
pit or quarry
without
licence or
permit

(2) Every person who contravenes or permits the contravention of the site plan or a condition of the licence or permit is guilty of an offence.

Contra-
vention of
licence,
permit or site
plan

(3) Every person who contravenes any provision of this Act or the regulations is guilty of an offence. R.S.O. 1980, c. 378, s. 18 (1), *part, amended.*

Contra-
vention of
Act or
regulations

(4) Every person who hinders or obstructs an inspector in the performance of the inspector's duties or furnishes the inspector with false information or refuses to furnish the inspector with information is guilty of an offence. R.S.O. 1980, c. 378, s. 13 (2), *amended.*

Obstruction
of inspectors

58.—(1) Every person who commits an offence under section 57 is liable on conviction to a fine of not less than \$500 and not more than \$30,000 for each day on which the offence occurs or continues. R.S.O. 1980, c. 378, s. 18 (1), *amended.*

Penalty

(2) The maximum fine provided under subsection (1) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the convicted person as a result of the commission of the offence. *New.*

Penalty
increased by
monetary
benefit

59. In any prosecution under this Act, the court may, in addition to imposing a fine under section 58, make such order as the court considers proper to obtain compliance with this Act, the regulations, the site plan or any condition of a licence or permit. *New.*

Order for
compliance

PART VIII

TERRITORY WITHOUT MUNICIPAL ORGANIZATION

Notice of
application
for licence in
area without
municipal
organization

60.—(1) The Minister, upon being satisfied that an application for a licence for a pit or quarry located in territory without municipal organization and the documents accompanying it comply with this Act and the regulations, shall serve the applicant with notice that the applicant must cause notice of the application in the prescribed form to be published in two successive issues of a newspaper having general circulation in the locality in which the site is located and to be given in signs placed in the prescribed manner on the site.

Notice of
publication

(2) The applicant shall notify the Minister when the publication of the notice has been completed. *New.*

Notice of
objection

(3) Any person may serve the Minister, within forty-five days after the second publication under subsection (1) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor.

Idem

(4) Upon receipt of a notice under subsection (3), the Minister shall provide the applicant with a copy thereof.

Notice
requiring
hearing

(5) Any person serving a notice under subsection (3) may, in addition, serve the Minister within the period provided under subsection (3) a notice that the person requires a hearing of the matter before the Board.

Reference to
Board for a
hearing

(6) Upon receipt of a notice under subsection (5) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (1, 3), *amended*.

Idem

(7) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), *amended*.

What Board
may consider
at one
hearing
1983, c. 1

(8) The Board may consider an application referred to it under section 34 of the *Planning Act*, 1983, and an application referred to it under this section at the same hearing. *New.*

Publication
of notice

61.—(1) The Minister shall, in addition to any notice that is required to be served, publish notice of a proposed action under subsection 13 (2), subsection 16 (1) or (2) or subsection 68 (1) or (2) in respect of a site located in territory without

municipal organization in two successive issues of a newspaper having general circulation in the locality in which the site is located.

(2) The Minister may dispense with publication of the notice under subsection (1) if the Minister does not consider the proposal to be a significant matter. Exception

(3) Any person may provide the Minister with comments at any time up to thirty days after the second publication under subsection (1) and the Minister may take no action until the thirty days have elapsed. Comments

(4) Any notice required to be given by the Minister to a municipality for the purpose of information only may, in respect of a site located in territory without municipal organization, be given to such persons and in such manner as the Minister, in his or her discretion, directs. *New.* Notice for information only

PART IX

MISCELLANEOUS

62.—(1) Every licensee or permittee shall keep, for a period of seven years, detailed records of the operation for which the licence or permit has been issued, including copies of all documents relating to sales and shipments. Record keeping

(2) Every licensee or permittee shall make available for inspection by any person authorized for the purpose of this Act all the records required to be kept under subsection (1). R.S.O. 1980, c. 268, s. 121, *amended.* Inspection of records

63.—(1) If it appears to the Minister that any person is not complying or does not intend to comply with this Act or the regulations or a site plan or a condition of a licence or permit, despite the imposition of any penalty for non-compliance, the Minister may apply to a judge of the High Court for an order directing the person to comply. Restraining orders

(2) Upon an application under subsection (1), the judge may make such order as he or she considers proper. Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2). R.S.O. 1980, c. 378, s. 15, *amended.* Appeal

64.—(1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom Service of notices

service is to be made at the last address for service appearing on the records of the Ministry.

Idem

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, and for cause beyond that person's control, receive the notice until a later date. R.S.O. 1980, c. 378, s. 16, *amended*.

Joint effect

R.S.O. 1980, c. 321 **65.** This Act and the regulations are in addition to and not in substitution for Regulation 694 of Revised Regulations of Ontario, 1980, made under the *Occupational Health and Safety Act* or any provisions substituted therefor at any time.

Act overrides municipal by-laws, etc.

66.—(1) In the event that this Act and the regulations and a municipal by-law, official plan or development agreement treat the same subject-matter in different ways, this Act and the regulations prevail and the by-law, official plan or development agreement is inoperative to the extent that it differs from this Act and the regulations. R.S.O. 1980, c. 378, s. 17 (2), *amended*.

Retroactive effect

(2) Subsection (1) applies whether the by-law, official plan or development agreement comes into force before or after this Act.

Power to pass by-laws restricted

R.S.O. 1980, c. 302

(3) Every municipal by-law passed under the *Municipal Act*, except a by-law passed under paragraph 137 of section 210, that purports to prohibit the carrying on or operating of a pit or quarry or wayside pit or quarry is inoperative to the extent that it differs from this Act and the regulations.

Idem

(4) Subsection (3) applies to by-laws passed before or after this Act comes into force. *New*.

Regulations

67. The Lieutenant Governor in Council may make regulations,

- (a) respecting the management of the aggregate resources of Ontario;
- (b) prescribing material as aggregate;
- (c) prescribing duties of inspectors;
- (d) prescribing or providing for the calculation of fees and providing for the payment thereof;

- (e) prescribing a rate per tonne of aggregate for the purpose of calculating fees;
- (f) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that shall be disbursed to municipalities, prescribing the amounts, manner and purposes of such disbursements and prescribing the municipalities to which such disbursements shall be made;
- (g) requiring and providing for the records and information that must be kept and returns that must be filed by municipalities to which fees are disbursed;
- (h) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that may be set apart and disbursed for the purposes mentioned in subsection 33 (2);
- (i) respecting the control and operation of pits and quarries;
- (j) prescribing the minimum royalty for aggregate that is the property of the Crown and providing for the payment thereof;
- (k) exempting a class or classes of aggregate permittees from the payment of royalties;
- (l) prescribing kinds of security for the purposes of subsection 46 (3);
- (m) governing the rehabilitation of pits and quarries;
- (n) respecting the form, terms and conditions and time of payment of rehabilitation security, prescribing a rate per tonne of aggregate for the purpose of calculating rehabilitation security, prescribing maximum and minimum amounts per hectare of rehabilitation security for aggregate operations, prescribing the rate of interest payable thereon and providing for refunds from rehabilitation security accounts and royalty accounts;
- (o) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;
- (p) prescribing forms for the purposes of this Act and providing for their use;

(q) prescribing the size and content of signs required under subsections 11 (2) and 60 (1) and governing the placement thereof;

(r) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1980, c. 378, s. 19 (1), *amended*.

Relief from compliance

68.—(1) The Minister, if of the opinion that it is not contrary to the public interest, may, in writing, relieve any licensee or permittee from compliance in whole or in part with the regulations.

Idem

(2) The relief granted under subsection (1) is subject to such conditions as are set out in the instrument giving it. R.S.O. 1980, c. 378, s. 19 (2), *amended*.

Idem

(3) The Minister may at any time rescind or vary any relief granted under subsection (1) upon written notice thereof to the licensee or permittee.

Notice to municipality

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed relief under subsection (1), including reasons therefor, upon the clerk of the local municipality in which the site is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment.

Delay in relief

(5) The Minister may not grant relief until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. *New*.

Pits and quarries under licence or permit under R.S.O. 1980, c. 378

69.—(1) Despite section 77, the *Pits and Quarries Control Act* and the regulations thereunder continue to apply to,

(a) every pit or quarry for which an operator is licensed under that Act for six months after this Act comes into force except where the licence expires under subsection (2) or (3); and

(b) every pit or quarry for which a wayside permit exists under that Act for the remaining term of the permit.

Application for a licence under this Act

R.S.O. 1980, c. 378

(2) During the first three months after this Act comes into force an application for replacing a licence for the identical site under this Act accompanied by the prescribed fee may be made by a licensee under the *Pits and Quarries Control Act* in respect of that licensee's pit or quarry and, if an application is

not so made, the licence under the *Pits and Quarries Control Act* expires at the end of the three-month period. R.S.O. 1980, c. 378

(3) Within the six-month period mentioned in subsection (1), if the applicant has paid fees and deposited rehabilitation security as required under the *Pits and Quarries Control Act*, the Minister shall issue a licence under this Act in respect of every application under subsection (2) even if the requirements of section 8 have not been met and whether or not all relevant zoning by-laws are complied with. Licence to be issued

(4) As soon as a licence is issued under this Act for a pit or quarry to which this section applies, the licence under the *Pits and Quarries Control Act* expires and that Act and the regulations thereunder cease to apply, but the site plan under that Act continues in effect until superseded by a site plan under this Act. Idem R.S.O. 1980, c. 378

(5) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first. When new site plan requirements to be met

(6) Clauses 7 (3) (a), (b) and (c) and sections 9, 10, 11, 12 and 60 do not apply to applications made under subsection (2) of this section. ss. 7 (3) (a-c), 9-12, 60, do not apply

(7) Despite section 77,

(a) the *Mining Act* and the regulations thereunder continue to apply to every pit and quarry for which a permit exists under that Act; and Permits and licences under R.S.O. 1980, cc. 268, 39

(b) the *Beach Protection Act* and the regulations thereunder continue to apply to every pit or quarry for which an operator is licensed under that Act,

for the remaining term of the permit or licence, as the case may be, or for twelve months after this Act comes into force, whichever occurs first.

(8) Every permit or licence issued under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* subsisting on the day that this Act comes into force shall be deemed to be a permit or licence, as the case may be, issued under this Act. Transition re R.S.O. 1980, cc. 378, 268, 39

(9) Every licence issued under the *Pits and Quarries Con-* Licences ruled invalid by court R.S.O. 1980, c. 378

trol Act by the Minister to reflect a change in operator and not revoked before the day this Act comes into force shall be deemed to be subsisting for the purpose of subsection (8) despite the decision of any court.

Expiry of
licences

(10) Every permit or licence referred to in subsection (7) that, on its terms, does not expire within twelve months after this Act comes into force expires with the twelfth month after this Act comes into force.

Application
where permit
or licence
under
R.S.O. 1980,
cc. 268, 39
to expire

(11) If a quarry permit under the *Mining Act* or a licence under the *Beach Protection Act* expires because of the application of subsection (10), the permittee or licensee may apply for a replacing aggregate permit, for the identical site, under this Act by an application accompanied by the prescribed fee submitted not later than ten months after this Act comes into force.

Permit to be
issued

(12) The Minister shall issue an aggregate permit in respect of every application under subsection (11) if the applicant has paid all fees, royalties and security required by this Act under which the permit or licence was issued.

Conditions

(13) Subject to sections 20 and 43, the Minister may attach such conditions as the Minister considers advisable to any licence issued under subsection (3) or any permit issued under subsection (12).

Site plan

(14) The site plan accompanying an application under subsection (12) may be a duplicate of the site plan that accompanied the original application unless the Minister directs otherwise.

Rehabili-
tation
security
R.S.O. 1980,
cc. 378, 268,
39

(15) All fees, royalties, security and interest on deposit or payable under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* in respect of a licence or aggregate permit replaced under this section shall be deemed to be on deposit or payable as provided under this Act.

Credit for
rehabilitation

(16) Any rehabilitation that has been carried out in respect of a pit or quarry under a permit or licence under an Act referred to in this section and for which the permittee or licensee has not received credit under that Act before this Act comes into force shall be deemed to be rehabilitation performed for the purpose of this Act. *New.*

Non-
application of
ss. 10,
11 (2-9), 60

70.—(1) Section 10, subsections 11 (2) to (9) and section 60 do not apply to an application for a licence in respect of a site for which a licence under the *Pits and Quarries Control Act* expired under subsection 69 (2) if the application is made

after the three-month period mentioned in subsection 69 (2) but within the two-year period after this Act comes into force.

(2) The Minister may waive the requirement for a report under section 9 for any application under subsection (1). Waiver of
s. 9

(3) The Minister may issue a licence in respect of an application under subsection (1) whether or not all relevant zoning by-laws are complied with. *New.* Non-compliance
with zoning
by-laws

71.—(1) This Act and the regulations apply to every established pit and quarry in a part of Ontario designated under subsection 5 (2). Act applies
to pits and
quarries in
newly
designated
areas

(2) The Minister may, in his or her absolute discretion, determine, in cases where doubt exists, whether a pit or quarry is an established pit or quarry. Determi-
nation by
Minister in
cases of
doubt

(3) Despite subsection 57 (1), a person with an established pit or quarry in a part of Ontario designated under subsection 5 (2) may continue to operate the pit or quarry without a licence or permit until the six-month period next following the date of the designation expires. Right to
operate for
limited
period
without
licence or
permit

(4) Despite subsection 57 (1), a person who applies for a licence during the six-month period next following the day of the designation under subsection 5 (2), and, Right to
operate for
limited
period
without
licence

(a) who is not required by the Minister to refer a matter to the Divisional Court under subsection 13 (6) may operate an established pit or quarry without a licence subsequent to such six-month period until the licence is either issued or refused or the twelve-month period next following the day of the designation expires, whichever occurs first; or

(b) who is required by the Minister to refer a matter to the Divisional Court under subsection 13 (6) may operate an established pit or quarry until the licence is either issued or refused.

(5) The Minister, if satisfied that the application under subsection (4) is in respect of an established pit or quarry and that the location of the land on which the pit or quarry is situated complies with all relevant zoning by-laws, shall issue a licence under this Act to the applicant even if the requirements of section 8 have not been met. Licence to be
issued

When new
site plan
requirements
to be met

(6) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.

ss. 7 (3)
(a-c), 9,
11 (2-9), 12,
60 do not
apply

(7) Despite subsection (1), clauses 7 (3) (a), (b) and (c), section 9, subsections 11 (2) to (9), sections 12 and 60 do not apply to applications made under subsection (4).

Non-
application of
ss. 11 (2-9), 12,
60 and
waiver of
s. 9

(8) Despite subsection (1), subsections 11 (2) to (9) and section 60 do not apply to an application for an established pit or quarry made during the two-year period next following the day of the designation.

Waiver

(9) The Minister may waive the requirement for a report under section 9 for any application under subsection (8).

Person
deemed
licensee from
date of
designation

(10) For the purposes of this Act and the regulations, every person who has been issued a licence for an established pit or quarry in a part of Ontario that is designated under subsection 5 (2) shall be deemed to be a licensee from the date of the designation. *New.*

Application
under
R.S.O. 1980,
cc. 378, 268,
39 deemed
application
under this
Act

72.—(1) If an application for a licence or permit to operate a pit or quarry has been made under and complies with the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* or a predecessor thereof but no licence or permit has been issued or refused by the Minister under one of those Acts before this Act comes into force, the application shall be deemed to be an application made under this Act.

Applicant
must comply
with this Act

(2) The applicant under an application referred to in subsection (1) shall comply under this Act with the requirements of,

- (a) section 7 within six months after this Act comes into force;
- (b) subsections 23 (3), (4) and (5) and subsection 24 (1) within six months after this Act comes into force; or
- (c) section 36 within ten months after this Act comes into force.

Minister may
refuse to
consider
application

(3) If, in the opinion of the Minister, the applicant fails to comply with the requirements of subsection (2), the Minister may refuse further consideration of the application.

(4) If an applicant complies with the requirements of subsection (2), a hearing pending before the Board or Commissioner or in respect of which the Board or Commissioner has not reported to the Minister respecting a matter referred to the Board or Commissioner under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act*, as the case may be, shall be deemed to be a hearing for the purposes of this Act. *New.*

Hearing
before the
Board

R.S.O. 1980,
cc. 378, 268,
39

73.—(1) Subject to subsection (2), despite the fact that a licence or permit has been issued, no person shall operate a quarry nearer to the natural edge of the Niagara escarpment than 200 metres measured horizontally.

Quarrying
near Niagara
escarpment

(2) No person holding a licence for a quarry under the *Pits and Quarries Control Act* when this Act comes into force and who is issued a licence for the quarry under this Act shall operate the quarry nearer to the natural edge of the Niagara escarpment than ninety metres measured horizontally.

Idem

(3) For the purposes of subsection (1) or (2), the natural edge of the Niagara escarpment is the natural edge determined by the Minister. *New.*

Determi-
nation of
natural edge

74. For the purposes of section 27 and subsection 69 (3), if the location of a pit or quarry for which a licence or wayside permit has been issued contravenes a zoning by-law, the licence or permit prevails and the by-law does not apply to the site. *New.*

Licence or
permit
prevails

75. For the purposes of this Act, aggregate that is not removed from the site as aggregate but is used on the site,

Aggregate
deemed
removed

- (a) in the manufacture of cement, concrete blocks, concrete pipes, bricks, asphalt, concrete mix or any other product; or
- (b) in the construction or maintenance of a structure or road, other than a road constructed primarily for the operation of a pit or quarry,

shall be deemed to have been removed from the site. *New.*

76.—(1) Every quarry permit issued under Part VII of the *Mining Act* and every licence issued under the *Beach Protection Act* that is subsisting when this Act comes into force continues in force until its expiry date or for a further twelve months, whichever occurs first.

Permits and
licences
under
R.S.O. 1980,
cc. 268, 39

Idem

(2) For the purpose of section 34, the holder of a permit or licence referred to in subsection (1) shall be deemed to be an aggregate permittee. *New.*

Repeals

77. The *Pits and Quarries Control Act*, being chapter 378 of the Revised Statutes of Ontario, 1980, the *Pits and Quarries Control Amendment Act, 1988*, being chapter 55, the *Beach Protection Act*, being chapter 39 of the Revised Statutes of Ontario, 1980, and Part VII of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, are repealed.

Commence-
ment

78. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

79. The short title of this Act is the *Aggregate Resources Act, 1989*.

Bill 171

An Act to amend the Municipal Freedom of Information and Protection of Privacy Act, 1989

The Hon. M. Elston

*Chairman of the
Management Board of Cabinet*

1st Reading May 28th, 1990

2nd Reading

3rd Reading

Royal Assent

Projet de loi 171

Loi portant modification de la Loi de 1989 sur l'accès à l'information municipale et la protection de la vie privée

L'honorable M. Elston

*Président du
Conseil de gestion du gouvernement*

1^{re} lecture 28 mai 1990

2^e lecture

3^e lecture

sanction royale

EXPLANATORY NOTES

SECTION 1. It is clarified that a head may delegate powers to an employee of the institution.

SECTION 2. The amendment provides that the Act does not apply to notes prepared by a member of a tribunal exercising a statutory power of decision.

NOTES EXPLICATIVES

ARTICLE 1 Il est précisé qu'une personne responsable peut déléguer ses attributions à un employé de l'institution.

ARTICLE 2 La modification prévoit que la loi ne s'applique pas aux notes préparées par un membre d'un tribunal qui exerce une compétence légale de décision.

Bill 171

1990

**An Act to amend the
Municipal Freedom of Information and
Protection of Privacy
Act, 1989**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1989, c. 63 **1. Subsection 49 (1) of the *Municipal Freedom of Information and Protection of Privacy Act, 1989* is repealed and the following substituted:**

Delegation of head's powers (1) A head may in writing delegate a power or duty granted or vested in the head to an officer or employee of the institution, subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation.

2. Section 52 of the Act is amended by adding the following subsection:

Idem (3) This Act does not apply to notes prepared by or for a member of a tribunal that is exercising a statutory power of decision if those notes are prepared for that person's personal use in connection with a proceeding in which the tribunal is required by law to hold a hearing.

Commence-
ment **3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.**

Short title **4. The short title of this Act is the *Municipal Freedom of Information and Protection of Privacy Amendment Act, 1990*.**

Projet de loi 171**1990****Loi portant modification de la
Loi de 1989 sur l'accès à
l'information municipale et la
protection de la vie privée**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Le paragraphe 49 (1) de la *Loi de 1989 sur l'accès à l'information municipale et la protection de la vie privée* est abrogé et remplacé par ce qui suit :

1989, chap. 63

(1) Sous réserve des limitations, restrictions, conditions et exigences qu'elle énonce dans le mandat, la personne responsable peut, par écrit, déléguer tout ou partie de ses attributions à un dirigeant ou employé de l'institution.

Délégation des attributions de la personne responsable

2 L'article 52 de la Loi est modifié par adjonction du paragraphe suivant :

(3) La présente loi ne s'applique pas aux notes préparées par ou pour un membre d'un tribunal qui exerce une compétence légale de décision si ces notes sont préparées pour l'usage personnel de cette personne aux fins d'une instance dans le cadre de laquelle le tribunal est tenu aux termes de la loi de tenir une audience.


Idem

3 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

4 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur l'accès à l'information municipale et la protection de la vie privée*.

Titre abrégé



Bill 172

An Act to provide for Employment Equity for Women, People with Disabilities, Native People and Members of Visible Minorities

Mr. Rae
(York South)

1st Reading May 29th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to achieve greater fairness in the workplace and a broadly representative workforce by eliminating discrimination against women, people with disabilities, native people and people who, because of their race or colour, are in a visible minority in Ontario.

The Bill applies to employers in both the private sector and the public sector. All employers with an annual payroll of more than \$300,000 are required to develop, implement and monitor an employment equity plan designed to achieve fair and representative placement of designated groups in all occupational levels of the firm, office, plant or factory.

These plans must identify barriers to steady, full-time work and promotion and set out how to eliminate these barriers. Plans must set out the positive practices that will be undertaken to achieve equity in employment, and specify targets for the employment of people in designated groups at all levels of the firm. These targets will be based on statistical data of the surrounding population developed by the Commission on Employment Equity. These will be reviewed and, if necessary, revised every three years.

Some positive practices are made mandatory, including developing barrier-free promotion policies, equal pay for work of equal value and providing educational programs to combat discrimination. Some positive practices are to be negotiated between parties, including providing language and literacy training and making seniority provisions apply to the whole workplace.

Plans must be developed and posted in the workplace within one year after the Act comes into force and implemented immediately thereafter. All employers are required to file an annual report with the Commission on Employment Equity. These reports are to be made public.

In unionized workplaces, plans must be negotiated with any trade unions representing employees and the trade unions have the right to full and equal participation in developing, implementing and monitoring the plans. The Bill specifies that in layoffs, the manner of the layoffs are to be negotiated between the union and the employer. The Act also makes it clear that acquired seniority rights, that are set out in collective agreements or clearly established by past practice, cannot be construed as barriers to employment equity when they apply to layoff and recall, and cannot be the subject of a complaint or an order of the Commission or Board.

In non-unionized workplaces employers are required to consult with the employees in the development, implementation and monitoring of the plans.

The Commission on Employment Equity is established and is given responsibility for the enforcement of the Act. It is also required to provide assistance in developing plans, conduct research and education programs, conduct investigations, receive and initiate complaints, provide mediation services and propose plans when employers and unions are not able to agree. The Commission is required to file an annual report with the Minister of Labour. The Minister is required to table the report in the Legislative Assembly.

The Employment Equity Board is established and is composed of representatives from labour, management (both public and private) and the designated groups. It will hear complaints regarding alleged violations of the Act and make orders to fix the terms of employment equity plans when the parties are not able to agree on them. Decisions of the Board are final, but it may reconsider or revoke its decisions.

Employers are liable to fines of up to \$100,000 for a first offence and \$200,000 for a second or subsequent offence. Minimum fines are also established.

The Bill provides for the establishment of a comprehensive skills training, retraining and apprenticeship program designed to increase the number of people in designated

groups in each of the occupations. The Lieutenant Governor in Council, by regulation, may establish a training fund and require employers to contribute to it. Such a fund would be administered by representatives of trade unions and the designated groups and would be used to assist in training and educational upgrading.

Bill 172**1990**

**An Act to provide for Employment Equity for
Women, People with Disabilities,
Native People and Members of Visible Minorities**

WHEREAS women, people with disabilities, native people and members of visible minorities experience higher unemployment rates than other people in Canada;

AND WHEREAS all working people have the right to a job that ensures economic security and dignity;

AND WHEREAS unequal and discriminatory conditions of employment for women, people with disabilities, native people and members of visible minorities impose a burden both on the people directly affected and on the community as a whole;

AND WHEREAS women, people with disabilities, native people and members of visible minorities are under-represented in most areas of employment and, when employed, are over-represented in low-paying jobs offering limited potential for advancement;

AND WHEREAS Ontario is committed to achieving employment equity in both the public and private sectors;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

1.—(1) In this Act,

Definitions

“Board” means the Employment Equity Board established by this Act;

“chairperson” means the chairperson of the Board;

“Commission” means the Employment Equity Commission established by this Act;

“compensation” means all payments, benefits, pensions and perquisites paid or provided to or for the benefit of an employee;

“designated groups” means women, people with disabilities, native persons and persons who are, because of their race or colour, in a visible minority in Ontario;

“director” means the director of the Commission;

“effective date” means the date this Act comes into force;

R.S.O. 1980,
c. 228

“employee” means a person who performs any work for or supplies any services to an employer for compensation and includes a dependent contractor as defined in section 1 of the *Labour Relations Act*;

“employer” means any person in either the private sector or the public sector who as the owner, proprietor, manager, superintendent, or overseer of any activity, business, work, trade, or profession, has control or direction of, or is indirectly responsible for, the employment of persons, where the annual payroll of the said employer is more than \$300,000;

“establishment” means all of the employees of an employer employed in a particular workplace or worksite of an employer, and can include such unit of production designated by the agreement of the employer and the trade union or trade unions and/or employees;

“geographic division” means,

R.S.O. 1980,
c. 497

(a) a county, territorial district or regional municipality described in the *Territorial Division Act*,

(b) The Municipality of Metropolitan Toronto;

“Minister” means the Minister of Labour;

“native persons” means people who identify themselves as Indian, Inuit or Metis people and includes people who come from an Indian, Inuit or Metis background, status as well as non-status;

“people with disabilities” means people who consider themselves to have, or believe that an employer or potential

employer would consider them to have, a loss or abnormality of psychological, physiological or anatomical structure or function that substantially limits at least one of their major life activities;

“region” means the geographic division or division in respect of which an establishment is defined;

“systemic discrimination” means employment practices and policies that pose barriers to employment or advancement for people of designated groups;

“trade union” means a trade union as defined in the *Labour Relations Act* and the *Crown Employees Collective Bargaining Act* that has the status of exclusive bargaining agent under those Acts in respect of any bargaining unit or units in an establishment and includes an organization representing employees where such organization has exclusive bargaining rights under any other Act in respect of such employees.

R.S.O. 1980,
cc. 228,
108

(2) For the purposes of this Act, the Territorial District of Sudbury and The Regional Municipality of Sudbury shall be considered to be one geographic division.

Geographic
divisions

(3) The employer shall, as soon as a plan is completed, provide a copy of every plan or draft plan,

Copies of
plans
provided

- (a) to any bargaining agents that represent employees who are affected by the document;
- (b) to any employee who requests a copy of the document;
- (c) to any third party who requests a copy of the document.

2.—(1) The purpose of this Act is to achieve greater equality in the workplace and a broadly representative workforce by eliminating discrimination, including but not limited to systemic discrimination, against women, people with disabilities, native people and members of visible minorities.

Purpose of
Act

(2) The purpose of this Act is to be achieved by eliminating practices, policies and job requirements that pose barriers to people of designated groups and by requiring special measures to correct disadvantages in employment experienced by people of designated groups.

Idem

EMPLOYMENT EQUITY PROGRAMS AND PLANS

Application
of Act

3.—(1) This Act applies to all employers in an establishment in Ontario with an annual payroll greater than \$300,000.

Plan to be
developed

(2) Subject to section 9, every employer shall develop an employment equity plan designed to remove employment barriers and achieve a fair representation of people from designated groups throughout occupational categories of the employer, to a degree that is at least proportional to the working age population of the region.

Practices and
policies to be
examined

(3) In developing an employment equity plan, the employer and the trade union or trade unions involved shall examine all of its practices and policies affecting employees, including, without limiting the generality of the foregoing,

- (a) recruitment;
- (b) determination of job qualifications;
- (c) hiring and development of selection criteria for hiring;
- (d) training programs;
- (e) transfer and promotion;
- (f) hours of work and schedules;
- (g) compensation;
- (h) workplace design and physical access;
- (i) organization of work;
- (j) technology and processes;
- (k) impact of seniority provisions;
- (l) provision of child care; and
- (m) provisions for leave of absence.

Contents of
plan

(4) Every plan shall,

- (a) identify any barriers to the employment or promotion of people of each designated group that may result from the employer's practices, policies and job requirements;

- (b) specify the timetable for the removal of all barriers identified in the plan and how the barriers will be removed;
- (c) specify the positive practices that will be undertaken to achieve equity in employment and set out a timetable for when these positive practices will be undertaken;
- (d) identify the number of people of each designated group working for the employer in each occupational category and salary range as set out in subsection 7 (1); and
- (e) set out a timetable for the achievement of a workforce that is representative of the population of the region of the province in which the establishment is located, including numerical targets for the employment of designated groups in each occupational category and salary range.

(5) The numerical targets specified in clause (4) (e) shall be derived from formulae provided by the Commission and based on proportions of designated groups populations in each region as set out in statistical data provided by the Commission.

Numerical
targets

(6) The Commission shall review its formulae and statistical data every three years and the employment equity plan shall be amended in accordance with this new information, if necessary.

Idem

(7) In specifying positive practices under clause (4) (c), the employer shall ensure the plan includes,

Positive
practices and
reasonable
accommo-
dation

- (a) recruitment policies and practices that are appropriate to inform people of designated groups of employment opportunities;
- (b) interviewing and selection policies and practices that will not pose barriers to the employment of people of designated groups;
- (c) promotion policies and practices that will not pose barriers to the promotion of people of designated groups;
- (d) elimination of job qualifications and requirements that may pose barriers to the employment of people

of designated groups, including requirements for Canadian experience;

- (e) policies and practices to ensure that people of designated groups receive equal pay for work of equal value;
- (f) anti-discrimination and anti-harassment policies;
- (g) leave of absence provisions that accommodate the needs of members of designated groups and other employees;
- (h) provision of educational programs in the establishment to combat discrimination;
- (i) measures for the accommodation of people with disabilities, including, without limiting the generality of the foregoing,
 - (i) provision of work related intervenors, interpreters and readers assistive devices,
 - (ii) provision of support services such as attendant services,
 - (iii) flexible job design, including flexible work hours, work restructuring, and accommodation,
 - (iv) work at home, and
 - (v) physical access and retrofitting of premises.

Idem

(8) In specifying positive practices and reasonable accommodation under clause (4) (c), the employer, with the agreement of any trade union or unions representing the employees in the establishment, may include any other policy or practice that may assist people of designated groups in obtaining employment or promotion.

Filing and
posting of
plan

(9) Within one year of the effective date, the employer shall file the plan with the Commission and post copies of it in prominent places in the establishment in such manner that it may be read by all of the employees in the establishment.

Plan to be
implemented

4. The employer shall implement the plan according to its terms forthwith after the plan is filed and posted.

5. The employer shall, in a written report to the Commission, assess the progress of the implementation of the plan and identify the reasons for any failure to meet a target or goal in the plan. Plan to be monitored

6.—(1) The employer shall amend the plan whenever the director notifies the employer that changes in the proportion of any designated group in the region requires its amendment. Amended plans

(2) The employer shall amend the plan if the results of monitoring the plan indicate that the targets or goals in the plan are not being reasonably met. Idem

(3) The provisions of this Act relating to a plan apply with necessary modifications to an amended plan as if the effective date were the day on which the employer is required to amend the plan. Idem

7.—(1) On or before the 1st day of June in each year, every employer shall file with the Commission an annual report in respect of each of the employer's plans setting out, in a form established by the Commission, Report to Commission

- (a) the range of compensation and the average and median compensation for each occupational category;
- (b) the range of compensation and the average and median compensation of women, men, people with disabilities, native people and members of visible minorities for each occupational category;
- (c) the numbers and proportion of women, men, people with disabilities, native people and members of visible minorities in each occupational category and in each salary range;
- (d) the results of implementing and monitoring the plan including reasons for any failure;
- (e) any amendments to the plan resulting from the employer's monitoring;
- (f) the number of employees hired, promoted and terminated for each occupational category and the numbers and proportion of those people from each designated group.

(2) Reports filed under subsection (1) are public information. Idem

ROLE OF TRADE UNIONS AND EMPLOYEES

Negotiations
with trade
unions

8.—(1) In establishments in which employees are represented by one or more trade unions, the employer shall negotiate the employment equity plan for the establishment with that union or those unions.

Idem

(2) At the request of the trade union or other bargaining agent, an employment equity plan negotiated under subsection (1) shall be included as part of a collective agreement between the parties.

Information
provided

(3) Within one month after the effective date, the employer shall provide to each trade union representing employees in the establishment,

- (a) information concerning the employer's employment policies and practices;
- (b) a list of the occupational categories of the employer and the number of employees and the range of compensation paid in respect of each category;
- (c) the numbers and proportion of women, men, people with disabilities, native people and members of visible minorities in each occupational category, and their compensation for each category; and
- (d) salary ranges of employees and the numbers and proportion of people of designated groups in each range.

Idem

(4) In layoffs in establishments with one or more trade unions, the manner of the layoffs shall be negotiated between the trade unions and the employer.

Right to
equal partici-
pation

9. The trade union or unions representing employees in the establishment have the right to full and equal participation in the development, implementation and monitoring of the employment equity plan for that establishment.

Where no
trade unions,
employer to
consult

10.—(1) In establishments in which none of the employees are represented by trade unions, the employer shall consult with the employees or their representatives in developing the terms of the employer's plan.

Draft plan to
be posted

(2) On or before twelve months after the effective date, the employer shall post copies of a draft plan in prominent places in the establishment in such manner that it may be read by all of the employees in the establishment.

(3) The employer shall consider any submissions for amendment to the draft plan before filing and posting a plan under subsection 3 (9). Consider submissions

11. The employer shall consult with and involve the employees in the development, implementation and monitoring of the plan for that establishment. Implementation and monitoring

12. For the purposes of this Act, rights of an employee with respect to seniority which are set forth in a collective agreement or which have been acquired through a collective agreement or an established practice of an employer, which rights deal with recall to employment after layoff from employment whether temporary or otherwise or which rights deal with layoff whether temporary or otherwise, or both, cannot be deemed to be barriers to employment equity and cannot be grounds for a complaint made under this Act or for an order of the Commission or Board made under this Act. Acquired rights—seniority

PART II

ENFORCEMENT

13.—(1) Where an employee has complied with this Act and the regulations or an order made thereunder or has sought or may seek the enforcement of this Act and the regulations or any order made thereunder, no employer shall for that reason, Protection from reprisal

- (a) dismiss or threaten to dismiss the employee;
- (b) discipline or suspend or threaten to discipline or suspend the employee; or
- (c) intimidate, compel or penalize the employee.

(2) The burden of proof that an employer did not act contrary to subsection (1) lies on the employer. Idem

(3) Where the Board is satisfied that an employer has contravened subsection (1), it may make any order that it considers appropriate, including ordering the employer to re-hire the employee and to pay to the employee lost compensation and costs. Idem

14.—(1) Where an employer and a trade union negotiating under section 10 fail to agree on the boundaries of a region or the contents of a plan within the required time, the employer forthwith shall give notice of the failure to the director. Failure to agree

Complaints

(2) Any trade union, employee or any other person may notify the director in writing respecting an employer's alleged failure,

- (a) to give notice to the director under subsection (1);
- (b) to post a plan as required;
- (c) to implement a plan as required;
- (d) to monitor a plan as required; or
- (e) to comply with an order made under this Act.

Idem

(3) Before an employee or other person notifies the director of an alleged failure in respect of an establishment in which one or more employees are represented by a trade union, the employee or person shall notify the trade union of the alleged failure and allow the trade union at least thirty days to respond.

Director to investigate

15.—(1) Where the director receives notice of a failure to agree or an employer's alleged failure under section 14, the director shall investigate the matter and propose a solution to it.

Proposal

(2) Where the director believes on reasonable grounds that an employer has failed to establish, implement or monitor a plan in the manner required by this Act and the regulations, the director may investigate the matter and propose a solution to it.

Idem

(3) In proposing a solution, the director may,

- (a) set boundaries of the region for the purpose of defining an establishment;
- (b) determine any or all of the terms of a plan for the employer;
- (c) require the employer to take any action the director considers appropriate in the circumstances to carry out the purposes of this Act.

Notice to be served

(4) The director shall serve notice of the proposal, together with written reasons for it, on the persons entitled to notice.

Idem

(5) The notice shall inform the persons that they are entitled to a hearing by the Board if they mail or deliver to the director and the Board, within fifteen days after the notice is

served, notice in writing requiring a hearing and they may so require such a hearing.

(6) The persons entitled to notice are,

Persons
entitled to
notice

- (a) the employer;
- (b) any trade union or unions representing employees in the establishment;
- (c) the complainant, if any and if the complainant is a person other than the employer or a trade union;
- (d) a representative of the employees as determined by the director, if there are no persons entitled to notice under clause (b) or (c).

(7) Where no person entitled to notice requires a hearing by the Board, the director may order the employer to carry out the proposal described in the notice.

Powers of
director
where no
hearing

16.—(1) Where a person entitled to notice requires a hearing by the Board, the Board shall appoint a time for and hold the hearing.

Powers of
Board where
hearing

(2) The parties before the Board are,

Parties

- (a) the persons entitled to notice under subsection 15 (5) or (6);
- (b) the director; and
- (c) any other person the Board may specify.

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript of it shall be furnished upon the same terms as in the Supreme Court.

Recording of
evidence

(4) After holding a hearing, the Board may by order direct the employer to carry out any proposal of the director or to take such action as the Board considers the employer ought to take and, for the purpose, the Board may substitute its opinion for that of the director.

Order of
Board

(5) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Board thereon is final and conclusive for all purposes.

Exclusive
jurisdiction

Reconsideration of orders

(6) The Board may at any time, if it considers it advisable to do so, reconsider an order made by it and vary or revoke the decision or order.

Contract compliance

17.—(1) Subject to the regulation made under this Act, it shall be deemed to be a condition of every contract entered into by or on behalf of the Crown or any of its agencies and of every subcontract entered into in the performance thereof that this Act will be complied with in the course of performing the contract.

Conditions of loans, etc.

(2) Subject to the regulation made under this Act, it shall be deemed to be a condition of every grant, contribution, loan or guarantee made by or on behalf of the Crown or any of its agencies that this Act will be complied with in the course of carrying out the purposes for which the grant, contribution, loan or guarantee was made.

Cancellation on conviction

(3) Where a person is convicted of an offence under section 18 and the offence constitutes a breach of a condition under this section, the breach of condition is sufficient grounds for cancellation of the contract, grant, contribution, loan or guarantee.

Implications for future contracts

(4) Failure to comply with prescribed measures for employment equity may result in the loss of opportunity to compete for future government business and contracts.

Offences

18.—(1) An employer is guilty of an offence under this Act if the employer,

- (a) fails to establish, implement or monitor an employment equity plan in accordance with this Act and the regulations;
- (b) fails to comply with an order made under this Act; or
- (c) obstructs a person making an investigation under this Act.

Penalty

(2) The maximum fine for a person convicted of an offence under subsection (1) is \$100,000 for a first offence and \$200,000 for a second or subsequent offence.

Idem

(3) The minimum fine for a first offence shall not be less than \$10,000 and not less than \$25,000 for a second or subsequent offence.

PART III

ADMINISTRATION

Employment Equity Board

19.—(1) The Employment Equity Board is established. Board established

(2) The Board shall be composed of eighteen members, at least nine of whom are women, at least nine of whom are members of designated groups other than women, and at least nine of whom shall be representatives of trade unions. Composition of Board

(3) The Lieutenant Governor in Council, after consulting with representatives of management, trade unions, organizations representing each of the designated groups and the Commission, shall appoint the members of the Board and select a chairperson from among them. Appointment of Board

(4) The members of the Board shall select one or more of their members as vice-chairpersons. Vice-chairperson

(5) The members shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council. Salary and expenses

(6) Such employees as are necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* to serve in the Employment Equity Board. Staff
R.S.O. 1980, c. 418

20.—(1) The Board shall hold hearings as provided for by this Act and may exercise such other powers and shall perform such other duties as are conferred or imposed on it by this Act. Powers and duties of Board

(2) Every member of the Board has the power to administer oaths and affirmations for the purpose of its proceedings. Administer oaths

(3) Not later than the 31st day of March in each year, the chairperson shall make an annual report to the Minister on the activities and affairs of the Board and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session. Annual report

(4) The annual report shall include a summary of the decisions of the board and the reasons for them. Idem

21.—(1) The chairperson shall supervise and direct the affairs of the Board and shall arrange the sittings of the Board and assign members to conduct hearings of the Board as the circumstances require. Chairperson

Delegation (2) The chairperson may delegate in writing any power or duty of the chairperson to a vice-chairperson, subject to any limitation or condition set out in the delegation.

Commission on Employment Equity

Commission established **22.**—(1) The Commission on Employment Equity is established.

Director (2) The Lieutenant Governor in Council shall appoint a person to act as director of the Commission.

Salary and expenses (3) The director shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council.

Staff (4) Such employees as are necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* to serve in the Commission.

R.S.O. 1980,
c. 418

Delegation (5) The director may delegate in writing any power or duty of the director to any employee of the Commission, subject to any limitation or condition set out in the delegation.

Annual report (6) Not later than the 31st day of March in each year, the director shall make an annual report to the Minister on the activities and affairs of the Commission and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Responsibility of Commission **23.**—(1) The Commission is responsible for the enforcement of this Act and the orders of the Board.

Idem (2) Without restricting the generality of subsection (1), the Commission shall,

- (a) promote employment equity through public education and outreach programs;
- (b) conduct research into matters relating to the employment and promotion of designated groups;
- (c) assist employers, unions, organizations and individuals in preparing, implementing and monitoring employment equity plans;
- (d) provide mediation services upon the agreement of the parties concerned;

- (e) monitor developments and conduct research into job design, workplace aids and other accommodation and access measures;
- (f) inspect establishments to ensure proper implementation of employment equity plans;
- (g) receive and review employment equity plans and reports from employers;
- (h) assist in the development of apprenticeship programs;
- (i) receive and initiate complaints;
- (j) identify, on the basis of information from employers' reports and on the basis of its own research, those occupational categories, including new occupations, in which people in designated groups are under-represented.

24.—(1) The director shall designate one or more employees of the Commission to be inspectors. Inspectors,
designation

(2) An inspector, for the purpose of carrying out an inspection authorized by this Act, Powers

- (a) may enter any place at any reasonable time;
- (b) may request for production for inspection documents or things that may be relevant to the carrying out of the Commission's duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination.

(3) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section. Entry to
dwellings

Warrant for
search

(4) A justice of the peace who is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of an inspector's duties under this Act may issue a warrant authorizing the inspector named in the warrant to search the place for any such documents or things.

Idem

(5) The warrant shall also be authority for the inspector to remove the documents or things for the purposes of making copies or extracts.

Idem

(6) Documents or things that are removed shall be returned promptly to the place from which they were removed.

Warranty for
entry

(7) If a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an inspector may carry out his or her duties under this Act, the justice may issue a warrant authorizing such entry by the inspector named in the warrant.

Execution
and expiry of
warrant

(8) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(9) No person shall hinder, obstruct or interfere with an inspector in the execution of a warrant or otherwise impede an inspector in carrying out his or her duties under this Act.

Admissibility
of copies

(10) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

PART IV

MISCELLANEOUS

Skills
training,
appren-
ticeship
program

25.—(1) The Government of Ontario shall establish a comprehensive skills training, retraining and apprenticeship program designed to increase the number of people of designated groups in each of the occupational categories that are under-represented by designated groups to the numerical targets established by the Commission.

(2) Any fund established by the regulations made under this Act shall have status independent of the Consolidated Revenue Fund and be administered by representatives of trade unions and the designated groups. Skills training fund

(3) Any fund established by the regulations made under this Act shall be used, Idem

- (a) to assist employers who provide apprenticeship in the establishment;
- (b) to provide access for people of designated groups to job and skill training and educational upgrading in publicly funded educational facilities;
- (c) to provide training and upgrading allowances for people of designated groups;
- (d) to provide child care subsidies for people taking training programs; and
- (e) to provide counsellors familiar with the special needs of people of designated groups in the workforce and the barriers to their full participation in the workforce.

(3) The people administering the program shall make a report to the Minister not later than the 31st day of March in each year on the activities and progress of the program and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session. Reports to Minister

(4) The director shall in each year prepare a consolidation of the reports received in that year, and shall, as soon as possible thereafter, but not later than the end of that year, cause the consolidation, together with an analysis made by the director, to be made to the Minister, and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session. Idem

26.—(1) The Government of Ontario may establish an office independent of the Government to be called the Employment Equity Advancement Office. Employment Equity Advancement Office

(2) The Employment Equity Advancement Office shall be administered by people of the designated groups and shall assist employees in developing, implementing and monitoring employment equity plans. Idem

Deemed
effective date

27. The effective date in respect of an employer who does not have employees on the day this Act comes into force is deemed to be the day on which that employer begins to have employees.

Regulations

28. The Lieutenant Governor in Council may make Regulations,

- (a) exempting contracts, grants, contributions, loans or guarantees of a value below a prescribed monetary level from section 17 and prescribing the level;
- (b) establishing a training and employment equity fund, contributing to the fund and requiring employers or any class of employers to contribute to the fund;
- (c) prescribing forms and providing for their use.

Crown bound

29. This Act binds the Crown.

Commence-
ment

30. This Act comes into force on the day it receives Royal Assent.

Short title

31. The short title of this Act is the *Employment Equity Act, 1990*.

Bill 173

An Act to amend the Mental Health Act

Mr. Callahan



1st Reading May 29th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The proposed amendments to the *Mental Health Act* relate to section 35a of the Act. Under subsection 35a (4), the review board may make an order authorizing the giving of specified psychiatric treatment to a patient who is not mentally competent.

The new subsection 35a (10a) provides that an appeal to the District Court of an order made by the review board under subsection (4) shall be heard within thirty days after the appeal is perfected or within such longer period as is agreed to by the parties.

The new subsection 35a (11a) supplements subsection 35a (11). Subsection (11) provides that where a party appeals an order of the review board authorizing the providing of specified treatment, the treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to. Subsection (11a) provides that a judge may on motion make an interim order authorizing the providing of the treatment.

Bill 173

1990

An Act to amend the Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35a of the *Mental Health Act*, as enacted by the Statutes of Ontario, 1987, chapter 37, section 12, is amended by adding the following subsections: R.S.O. 1980,
c. 262

(10a) An appeal of an order made under subsection (4) shall be heard within thirty days after the appeal is perfected or such longer period as is agreed to by the parties. Date for
appeal

.

(11a) On an appeal referred to in subsection (11), a judge may on motion make an interim order authorizing the providing of the treatment or course of treatment specified in the order made under subsection (4) pending the outcome of the appeal. Interim order

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Mental Health Amendment Act, 1990*. Short title

Bill 174

An Act to amend the Landlord and Tenant Act

Mr. Reycraft



1st Reading May 31st, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Subsection 125 (6) of the *Landlord and Tenant Act* provides that a landlord of a mobile home park shall not act as the agent of a tenant with respect to the sale of a mobile home, except pursuant to a written agency contract. The proposed amendments to the Act would require an agency contract to be separate and distinct from a tenancy agreement. An agency contract would not be valid unless it is entered into after the tenant decides to sell the tenant's mobile home. The amendments would apply to agency contracts entered into before or after the amendments come into force.

Bill 174

1990

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 125 of the *Landlord and Tenant Act* is amended by adding the following subsections: R.S.O. 1980, c. 232

(7) An agency contract shall be separate from and not form part of a tenancy agreement. Separate contract

(8) An agency contract is not valid unless it is entered into after the tenant decides to sell, lease or otherwise part with the possession of the tenant's mobile home. Validity of contract

(9) Subsections (7) and (8) apply to agency contracts entered into before or after subsections (7) and (8) come into force. Application

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Landlord and Tenant Amendment Act, 1990*. Short title



Bill 175

An Act to revise the Liquor Licence Act and to amend the law relating to Liquor

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations



1st Reading June 4th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill replaces the *Liquor Licence Act*. Some features of the Bill are as follows:

1. The definition of manufacturer is expanded to include foreign manufacturers.
2. The maximum size of the Liquor Licence Board of Ontario is increased from seven to nine members.
3. The Bill provides for licences to sell liquor, licences to deliver liquor, licences to represent a manufacturer, manufacturers' licences and special occasion permits.
4. A licence to deliver liquor will be required in order to deliver liquor for a fee.
5. In considering an application for a licence to sell liquor, the Board will hear representations from local residents only if it has received written objections from residents.
6. Appeals from Board decisions will be made to the Divisional Court and not to The Commercial Registration Appeal Tribunal.
7. The Board will be authorized to disqualify premises for purposes of issuing special occasion permits on the grounds of a violation of the law at a previous event held on the premises.
8. Licensees will be prohibited from permitting persons under nineteen to have or consume liquor on licensed premises.
9. The consumption of liquor in a private place will be permitted. Private place will be defined in the regulations.
10. Interdiction orders prohibiting the sale of liquor to an individual are discontinued.
11. The *Human Rights Code, 1981* is amended to reflect the minimum legal drinking age of nineteen.

Bill 175

1990

An Act to revise the Liquor Licence Act and to amend the law relating to Liquor

CONTENTS

Section

1. Definitions

BOARD

- 2. Liquor Licence Board of Ontario
- 3. Member or employee designated by chair
- 4. Bargaining unit and agent

LICENCES AND PERMITS

- 5. Licence or permit required
- 6. Licence to sell
- 7. Public notice of application
- 8. Member to consider application
- 9. Public meeting
- 10. Licence to deliver
- 11. Licence to represent manufacturer
- 12. Issuance of licence
- 13. Continuance pending renewal
- 14. Imposition of new conditions on licence
- 15. Revocation, suspension or refusal to renew
- 16. Change of ownership of business
- 17. Transfer of licence
- 18. Temporary transfer of licence
- 19. Special occasion permit
- 20. Disqualification of premises
- 21. Notice of proposal
- 22. Manufacturer's licence to sell to L.C.B.O.

HEARINGS

- 23. Hearing
- 24. Reviewing decision or order
- 25. Appeal to Divisional Court
- 26. Service

RESPONSIBLE USE

- 27. Unlawful purchase
- 28. Unlawful gift
- 29. Sale to intoxicated person

Section

- 30. Sale to person under nineteen
- 31. Unlawful possession or consumption
- 32. Conveying liquor in vehicle or boat
- 33. Unlawful consumption or supply of alcohol
- 34. Removing person from premises
- 35. By-law designating recreational area
- 36. Taking to hospital in lieu of charge
- 37. Detention in institution
- 38. Advertising
- 39. Civil liability
- 40. Exception for drugs and medicines
- 41. Exception for research and education
- 42. Intoxicating liquor

COMPLIANCE

- 43. Persons designated by chair
- 44. Inspections
- 45. Obstruction
- 46. Forfeiture of liquor
- 47. Seizure of liquor
- 48. Arrest without warrant
- 49. Confidentiality
- 50. Chair's certificate
- 51. Analyst's certificate or report

LOCAL OPTION

- 52. Prohibited areas
- 53. Local option to authorize sale
- 54. Local option to cease sale
- 55. Day of polling
- 56. Eligible voters
- 57. Application of *Municipal Elections Act*
- 58. Return to Board
- 59. Resubmitting questions

Section

60. Amalgamation does not affect status

OFFENCES

61. Offences

REGULATIONS

62. Regulations

Section

MISCELLANEOUS

63. Transition

64. Repeals

65. *Human Rights Code, 1981* amended

66. Commencement

67. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“alcohol” means a product of fermentation or distillation of grains, fruits or other agricultural products, and includes synthetic ethyl alcohol;

“beer” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;

“Board” means the Liquor Licence Board of Ontario;

R.S.O. 1980,
c. 243

“government store” means a government store established under the *Liquor Control Act*;

“licence” means a licence issued under this Act;

“liquor” means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter;

“manufacturer” means a person who produces liquor for sale;

“municipality” means a city, town, village or township;

“Ontario wine” means,

- (a) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof and includes Ontario wine to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario,

- (b) wine produced by the alcoholic fermentation of Ontario honey, with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine, or
- (c) wine produced from a combination of,
 - (i) apples grown in Ontario or the concentrated juice thereof to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario, and
 - (ii) the concentrated juice of apples grown outside of Ontario,

in such proportion as is prescribed;

“permit” means a permit issued under this Act;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

“sell” means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and “sale” has a corresponding meaning;

“spirits” means any beverage containing alcohol obtained by distillation;

“wine” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

BOARD

2.—(1) The Liquor Licence Board is continued as the Liquor Licence Board of Ontario.

Liquor
Licence
Board of
Ontario

(2) The Board shall consist of not more than nine members appointed by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council may designate one member of the Board as chair and one or more members as vice-chairs.

Chair and
vice-chair

(4) The chair is the chief executive officer of the Board.

Idem

- Idem (5) If the chair is absent or is unable to act, a vice-chair designated by the chair shall have all the powers and duties of the chair.
- Term (6) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.
- Remuneration (7) The members of the Board shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council.
- Non-application of R.S.O. 1980, c. 95 (8) The Board is a corporation to which the *Corporations Act* does not apply.
- Duties (9) The Board shall perform such duties as are assigned to it under this and any other Act and shall administer and enforce this Act and the regulations.
- Staff (10) The Board may employ such persons as are considered necessary and may, subject to the approval of the Lieutenant Governor in Council, establish job categories, salary ranges and terms and conditions of employment.
- Finances (11) The revenues of the Board shall be paid to the Treasurer of Ontario and the money required for the expenditures of the Board shall be paid out of the money appropriated therefor by the Legislature.
- Member designated by chair **3.—**(1) A function referred to in this Act or the regulations as being performed by a member of the Board may be performed by one or more members designated by the chair of the Board.
- Employee designated by chair (2) A function referred to in this Act or the regulations as being performed by an employee of the Board may be performed by one or more employees designated by the chair of the Board.
- Bargaining unit and agent under R.S.O. 1980, c. 108 **4.** For the purposes of the *Crown Employees Collective Bargaining Act*, and subject to any further designation under that Act,
- (a) the persons employed in the work of the Board are designated as a unit of employees that is an appropriate bargaining unit for collective bargaining purposes; and

- (b) the Ontario Liquor Boards Employees' Union is designated as the employee organization that has representation rights in relation to the bargaining unit.

LICENCES AND PERMITS

5.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit to sell liquor or under the authority of a manufacturer's licence.

Licence or
permit
required

(2) No person shall canvass for, receive or solicit orders for the sale of liquor unless the person is the holder of a licence or permit to sell liquor or unless the person is the holder of a licence to represent a manufacturer.

Soliciting
orders

(3) No person shall deliver liquor for a fee except under the authority of a licence to deliver liquor.

Delivery for
fee

(4) Subsections (1), (2) and (3) do not apply to the sale or delivery of liquor by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*.

Exception

R.S.O. 1980,
c. 243

6.—(1) A person may apply to the Board for a licence to sell liquor.

Licence to
sell

(2) Subject to subsection (4), an applicant is entitled to be issued a licence to sell liquor except if,

Requirements

- (a) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's business;
- (b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) the applicant is a corporation and a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (d) the past or present conduct of the persons referred to in subsection (3) affords reasonable grounds for belief that the applicant will not carry on business in accordance with the law and with integrity and honesty;

- (e) the applicant or an employee or agent of the applicant makes a false statement or provides false information in an application under this Act;
- (f) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;
- (g) the premises, accommodation, equipment and facilities in respect of which the licence is to be issued are not, or will not be, if the applicant is licensed, in compliance with this Act and the regulations; or
- (h) the licence is not in the public interest having regard to the needs and wishes of the residents of the municipality in which the premises are located.

Idem

(3) Clause (2) (d) applies to the following persons:

1. The applicant.
2. An officer or director of the applicant.
3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.
4. A person having a beneficial interest in the business of the applicant.
5. A person having responsibility for the management or operation of the business of the applicant.

Prohibition

(4) Except as permitted by the regulations, a licence to sell liquor shall not be issued,

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;
- (b) to a manufacturer or to a person who is so associated or connected therewith or financially interested therein as to be likely to promote the sale of liquor of that manufacturer;
- (c) to a person who by reason of an agreement, arrangement or understanding with any person is likely to promote the sale of liquor of any manufacturer;

- (d) to a person for premises in which a manufacturer has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any personal property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee; or
- (e) to a person in respect of a business in which a manufacturer has an interest by way of a franchise agreement.

(5) In this section, “equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing. Definition

7.—(1) Subject to subsection (2), the Board shall give notice in the prescribed manner of an application for a licence to sell liquor to the residents of the municipality in which the premises are located. Public notice of application

(2) The Board is not required to give notice under subsection (1) if the applicant for the licence is disentitled under clauses 6 (2) (a) to (g) or subsection 6 (4). Exception

(3) In a notice given under subsection (1), the Board shall request from the residents of the municipality written submissions as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents. Submissions

(4) Written submissions concerning an application shall be made in the prescribed manner and within the prescribed time. Idem

8.—(1) A member of the Board shall consider an application for a licence to sell liquor. Member to consider application

(2) If, after giving notice of an application under subsection 7 (1), the Board receives no written objections to the application from the residents of the municipality within the time for making submissions, the member may, No objections

- (a) approve the application if the applicant is not disentitled under subsection 6 (2) or (4); or
- (b) direct that a proposal to review the application be issued.

Conditions
on consent

(3) A member who approves an application under clause (2) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Objections

(4) If, after giving notice of an application under subsection 7 (1), the Board receives one or more written objections to the application from the residents of the municipality within the time for making submissions, the member may,

(a) call a public meeting; or

(b) direct that a proposal to review the application be issued.

No notice

(5) If no notice of an application is given under subsection 7 (1) because the applicant is disentitled under clauses 6 (2) (a) to (g) or subsection 6 (4), the member shall direct that a proposal to review the application be issued.

Public
meeting

9.—(1) If a public meeting is called under clause 8 (4) (a), the Board shall give notice in the prescribed manner of a time and place for the meeting.

Member to
conduct
meeting

(2) A member of the Board shall conduct the public meeting.

Represent-
ations by
residents

(3) The member shall receive representations from the residents of the municipality in which the premises are located as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents.

Idem

(4) The member shall consider the representations of the residents in determining whether to approve the application.

Member to
consider
application

(5) After the meeting has been held, the member shall consider the application and may,

(a) approve the application if the applicant is not disentitled under subsection 6 (2) or (4); or

(b) direct that a proposal to review the application be issued.

Conditions
on consent

(6) A member who approves an application under clause (5) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Licence to
deliver

10.—(1) A person may apply to the Board for a licence to deliver liquor.

(2) Subject to subsection (5), an applicant for a licence to deliver liquor is entitled to the issuance of the licence unless the applicant is disentitled for any ground under clauses 6 (2) (a) to (g). Requirements

(3) An application for a licence shall be considered by a member of the Board and the member may, Member to consider application

(a) approve the application if the applicant is not disentitled under subsection (2); or

(b) direct that a proposal be issued to refuse to issue the licence.

(4) A member who approves an application for a licence under clause (3) (a) may specify any conditions consented to by the applicant that are to be attached to the licence. Conditions on consent

(5) A licence to deliver liquor shall not be issued, Prohibition

(a) to a person who is under agreement with any person to sell or deliver the liquor of any manufacturer;

(b) to a manufacturer or to a person who is so associated or connected therewith or financially interested therein as to be likely to promote the sale or delivery of liquor of that manufacturer; or

(c) to a person who by reason of an agreement, arrangement or understanding with any person is likely to promote the sale or delivery of liquor of any manufacturer.

11.—(1) No person shall directly or indirectly act as or purport to be an agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer unless the person is the holder of a licence to represent that manufacturer. Licence to represent manufacturer

(2) A person may apply to the Board for a licence to represent a manufacturer. Applying for licence

(3) An applicant for a licence to represent a manufacturer is entitled to the issuance of the licence unless the applicant is disentitled for any ground under clause 6 (2) (d), (e) or (f). Requirements

(4) An application for a licence shall be considered by a member or employee of the Board and the member or employee may, Member or employee to consider application

- (a) approve the application if the applicant is not disentitled under subsection (3); or
- (b) direct that a proposal be issued to refuse to issue the licence.

Conditions
on consent

(5) A member or employee who approves an application for a licence under clause (4) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Not
transferable

(6) A licence to represent a manufacturer is not transferable.

Issuance of
licence

12.—(1) The Board shall issue a licence to sell liquor, a licence to deliver liquor or a licence to represent a manufacturer to an applicant therefor whose application is approved by a member or employee of the Board or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.

Conditions of
licence

(2) A licence is subject to such conditions as may be consented to by the applicant or licensee, imposed by the Board or prescribed.

Limit on
further
applications

(3) If the issuance of a licence to sell liquor is refused on the ground under clause 6 (2) (h), no further application may be made for a licence for the same premises within two years after the date of the refusal.

Exception

(4) If a member of the Board is satisfied that there has been a significant change in the circumstances that pertained at the time the application was refused, the Board may permit a re-application within the two-year period referred to in subsection (3).

Continuance
pending
renewal

13. If, within the time prescribed therefor or, if no time is prescribed, before expiry of a licence, the licensee has applied for renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) if the licensee is served with notice of a proposal to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, if a hearing is required, until the order has become final.

14.—(1) A member or employee of the Board may at any time review a licence and may,

Imposition of
new
conditions on
licence

- (a) attach to the licence any further conditions consented to by the licensee; or
- (b) direct that a proposal be issued to attach to the licence such further conditions as the member or employee considers proper to give effect to the purposes of this Act.

(2) A member or employee of the Board may, on the application of a licensee, remove a condition of a licence, other than a prescribed condition, if there is a change in circumstances.

Removal of
conditions

(3) A member or employee of the Board who, upon considering an application for removal of a condition, decides not to remove the condition shall direct that a proposal be issued to refuse to remove the condition.

Idem

15.—(1) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to sell liquor or refuse to renew such a licence for any ground under subsection 6 (2) or (4) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Revocation,
suspension or
refusal to
renew licence
to sell liquor

(2) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to deliver liquor or refuse to renew such a licence for any ground under clauses 6 (2) (a) to (g) or subsection 10 (5) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem, licence
to deliver
liquor

(3) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to represent a manufacturer or refuse to renew such a licence for any ground under clause 6 (2) (d), (e) or (f) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem, licence
to represent
manufacturer

(4) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a manufacturer's licence or refuse to renew such a licence for any ground under clause 6 (2) (d), (e), (f) or (g) or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem,
manufac-
turer's
licence

Interim
suspension of
licence

(5) If a proposal is issued to revoke or suspend a licence, the Board may by order suspend the licence prior to a hearing if two members of the Board consider it to be necessary in the public interest.

Idem

(6) An order to suspend a licence under subsection (5) takes effect immediately and, if a hearing is required, expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the time of expiration until the hearing is concluded.

Voluntary
cancellation

(7) The Board may cancel a licence upon the request in writing of the licensee and the surrender of the licence by the licensee.

Change of
ownership of
business

16.—(1) Except as permitted by the regulations, if there is a prescribed change of ownership of a business carried on under a licence, no person shall keep for sale, offer for sale or sell liquor or deliver liquor for a fee under the authority of the licence unless the licence is transferred by the Board in accordance with this Act and the regulations.

Change of
ownership of
corporate
licensee

(2) Except as permitted by the regulations, if there is a prescribed change of ownership of a licensee that is a corporation, the licensee shall not keep for sale, offer for sale or sell liquor or deliver liquor for a fee under the authority of the licensee's licence unless the licence is transferred by the Board in accordance with this Act and the regulations.

Transfer of
licence

17.—(1) A person may apply to the Board for the transfer of a licence to sell liquor or a licence to deliver liquor.

Require-
ments,
licence to sell
liquor

(2) An applicant for the transfer of a licence to sell liquor is entitled to the transfer except if the applicant would not be entitled to the issuance of a licence for any ground under clauses 6 (2) (a) to (g) or subsection 6 (4).

Idem, licence
to deliver
liquor

(3) An applicant for the transfer of a licence to deliver liquor is entitled to the transfer except if the applicant would not be entitled to the issuance of a licence for any ground under clauses 6 (2) (a) to (g) or subsection 10 (5).

Member to
consider
application

(4) An application for a transfer of a licence shall be considered by a member of the Board and the member may,

(a) approve the application if the applicant is not disentitled under subsection (2) or (3); or

- (b) direct that a proposal be issued to refuse to transfer the licence.

(5) A member of the Board who approves an application under clause (4) (a) may specify any conditions consented to by the applicant that are to be attached to the licence. Conditions on consent

(6) The Board shall transfer a licence to an applicant whose application is approved by a member of the Board or by the Board, who complies with this Act and the regulations and who pays the prescribed fee. Transfer

(7) A licence transferred under this section is subject to such conditions as may be consented to by the applicant, imposed by the Board or prescribed. Conditions of licence

18.—(1) The Board, in accordance with the regulations, may transfer a licence to sell liquor for a period of not more than one year to permit the orderly disposition of the business carried on under the licence. Temporary transfer of licence

(2) Subsection 17 (2) does not apply to a temporary transfer under this section. Idem

19.—(1) A person may apply to the Board for a permit authorizing the holder thereof to sell or serve liquor on a prescribed special occasion. Special occasion permit

(2) An applicant for a permit for a special occasion is entitled to be issued the permit except if, Requirements

- (a) the applicant would not be entitled to the issuance of a licence to sell liquor for any ground under clauses 6 (2) (d) to (g) or subsection 6 (4); or

- (b) the premises for which the permit is applied are disqualified under section 20.

(3) In this section, “authorized person” means a person within a class of persons designated by the regulations. Definition

(4) An application for a permit shall be considered by a member of the Board or an authorized person and the member or authorized person may, Person to consider application

- (a) approve the application if the applicant is not disqualified under subsection (2); or
- (b) direct that a proposal be issued to refuse to issue the permit.

Conditions
on consent

(5) A member or authorized person who approves an application for a permit may specify any conditions consented to by the applicant that are to be attached to the permit.

Issuance of
permit

(6) The Board shall issue a permit to an applicant therefor whose application is approved by a member of the Board or an authorized person or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.

Conditions of
permit

(7) A permit is subject to such conditions as may be consented to by the applicant or permit holder, imposed by the Board or prescribed.

Imposition of
new
conditions on
permit

(8) A member or employee of the Board may at any time review a permit and may,

- (a) attach to the permit any further conditions consented to by the permit holder; or
- (b) direct that a proposal be issued to attach to the permit such further conditions as the member or employee considers proper to give effect to the purposes of this Act.

Removal of
conditions

(9) A member or employee of the Board may, on the application of a permit holder, remove a condition of a permit, other than a prescribed condition, if there is a change in circumstances.

Idem

(10) A member or employee of the Board who, upon considering an application for removal of a condition, decides not to remove the condition shall direct that a proposal be issued to refuse to remove the condition.

Revocation
of permit

(11) A member or employee of the Board may direct that a proposal be issued to revoke a permit for any ground that would disentitle the holder to a permit if the holder were an applicant under subsection (2) or if the holder has contravened this Act, the regulations or a condition of the permit.

Immediate
revocation of
permit

(12) If a proposal is issued to revoke a permit, the Board may by order revoke the permit prior to a hearing if two members of the Board,

- (a) consider it to be necessary in the public interest;
- (b) are satisfied that false information has been furnished in an application for the permit;

- (c) are satisfied that the holder has contravened this Act, the regulations or a condition of the permit; or
- (d) determine that the premises for which the permit is issued are disqualified under section 20.

(13) An order to revoke a permit under subsection (12) takes effect immediately. Idem

20.—(1) A member or employee of the Board may direct that a proposal be issued to disqualify premises for purposes of issuing permits under section 19 on the grounds of a contravention of the law that has occurred at a previous event held on the premises. Disqualification of premises

(2) If a proposal is issued to disqualify premises, the Board may by order disqualify the premises prior to a hearing, if two members of the Board consider it to be necessary in the public interest. Interim disqualification of premises

(3) An order to disqualify premises under subsection (2) takes effect immediately and, if a hearing is required, expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the period of disqualification until the hearing is concluded. Idem

21.—(1) If a member or employee of the Board directs that a proposal be issued with respect to any of the following matters, the Board shall serve notice of the proposal together with written reasons therefor on the applicant or licensee: Notice of proposal

1. Review an application for a licence to sell liquor.
2. Refuse to issue a licence to deliver liquor or a licence to represent a manufacturer.
3. Refuse to renew a licence.
4. Refuse to transfer a licence, other than a manufacturer's licence.
5. Suspend or revoke a licence.
6. Attach a condition to a licence.
7. Refuse to remove a condition of a licence.

(2) If a member or employee of the Board or an authorized person under section 19 directs that a proposal be issued with Idem

respect to any of the following matters, the Board shall serve notice of the proposal together with written reasons therefor on the applicant or permit holder:

1. Refusing to issue a permit.
2. Revoking a permit.
3. Attaching a condition to a permit.
4. Refusing to remove a condition of a permit.

Idem

(3) If a member or employee of the Board directs that a proposal be issued to disqualify premises under section 20, the Board shall serve notice of the proposal together with written reasons therefor on the owner of the premises.

Notice
requiring
hearing

(4) A notice of a proposal shall inform the applicant, licensee, permit holder or owner that the person is entitled to a hearing by the Board if the person mails or delivers to the Board, within fifteen days after the notice is served on the person, notice in writing requiring a hearing by the Board, and the person may so require such a hearing.

No hearing

(5) If a person to whom a notice is sent under this section does not require a hearing by the Board, the Board may,

- (a) in the case of a notice of a proposal to review an application for a licence to sell liquor, refuse to issue the licence; or
- (b) in any case other than that referred to in clause (a), carry out the proposal stated in the notice.

Manufac-
turer's
licence to sell
to L.C.B.O.
R.S.O. 1980,
c. 243

22.—(1) A manufacturer of spirits, beer or Ontario wine may apply to the Board for a licence to sell the spirits, beer or Ontario wine to the Liquor Control Board of Ontario under the *Liquor Control Act*.

Issuance

(2) The Board may issue a manufacturer's licence to an applicant under this section.

Conditions

(3) A manufacturer's licence is subject to such conditions as may be imposed by the Board or prescribed.

Transfer

(4) The Board, in accordance with the regulations, may transfer a manufacturer's licence.

Decision final

(5) The Board's decision to issue or transfer or to refuse to issue or transfer a manufacturer's licence is final.

(6) The Board shall notify the Minister of Consumer and Commercial Relations of every licence issued or transferred under this section. Notice to Minister

HEARINGS

23.—(1) If the Board is required to hold a hearing under subsection 21 (4), two members of the Board shall constitute a quorum of the Board for purposes of the hearing and decision. Hearing

(2) Despite subsection (1), the chair of the Board may direct that a particular matter be heard and decided by one member of the Board, except for a hearing to consider a proposal that is based on the ground under clause 6 (2) (h). Idem

(3) A member holding a hearing must not have taken part in any consideration of the subject-matter of that particular hearing. No prior consideration of matter

(4) Despite subsection (3), a member holding a hearing may examine prior to the hearing any material required under any Act to be filed with the Board by the parties to the proceeding. Idem

(5) The Board shall fix a time and place for the hearing of the matter and shall at least ten days before the day fixed cause notice of the hearing to be served upon the person who has required the hearing. Notice

(6) Despite subsection (5), the Board may, on the consent of all parties, commence a hearing earlier than ten days after notice of the hearing is served under subsection (5). Idem

(7) The Board may, in such manner as it considers advisable, give notice of a hearing to such other persons as it considers appropriate. Idem

(8) A person upon whom notice of a hearing is served under subsection (5) and any other person added by the Board are parties to the proceeding. Parties

(9) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceeding. Decision and reasons

(10) Following a hearing to consider a proposal to review an application for a licence to sell liquor, the Board may approve the application or may refuse to issue the licence. Powers

- Idem** (11) Following a hearing to consider any other proposal referred to in subsection 21 (1), (2) or (3), the Board may decline to carry out the proposal or may carry out the proposal, in whole or in part, and with any changes that the Board considers appropriate, and the Board may approve an application to which the proposal relates.
- Conditions** (12) Following a hearing, the Board may attach to a licence or permit any condition that the Board considers proper to give effect to the purposes of this Act.
- Stay** (13) An order of the Board takes effect immediately unless otherwise provided in the order but, if an appeal is made to the Divisional Court, the Court may grant a stay until the disposition of the appeal.
- Oaths** (14) Every member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings.
- Expiry of term** (15) A member of the Board sitting for a hearing whose term of office expires before the hearing is completed remains a member of the Board for the purpose of completing the hearing in the same manner as if his or her term of office had not expired.
- Reviewing decision or order** **24.—**(1) Upon the request of a person to whom a decision or order of the Board relates, the Board may review the decision or order and, if the board considers it appropriate, may vary or rescind the decision or order.
- Consent** (2) If a decision or order being reviewed under this section was made following a hearing, the Board may vary or rescind it only upon the consent of all parties to the hearing.
- Public interest** (3) A request may not be made to review a decision or order refusing the issuance of a licence to sell liquor or revoking, suspending or refusing to renew such a licence, if the decision or order is based on the ground under clause 6 (2) (h).
- Appeal to Divisional Court** **25.—**(1) A party to a proceeding before the Board under section 23 may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.
- Question of law only** (2) An appeal under this section may be made on a question of law only.
- Board a party** (3) The Board is a party to an appeal under this section.

(4) The Minister of Consumer and Commercial Relations is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Right to be heard

26.—(1) A notice, order or other document that is required or permitted under this Act to be given or delivered to or served on a person is sufficiently given, delivered or served if it is, Service

- (a) delivered personally;
- (b) sent by first class mail addressed to the person at the person's last known address; or
- (c) served in a prescribed manner.

(2) A notice, order or other document sent by first class mail in accordance with clause (1) (b) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that it was not received on or before that date because of absence, accident, illness or other cause beyond the person's control. Idem

RESPONSIBLE USE

27. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell liquor. Unlawful purchase

28. No manufacturer or employee, agent or licensed representative of a manufacturer shall give any liquor to any person, except as permitted by the regulations. Unlawful gift

29. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person who is or appears to be intoxicated. Sale to intoxicated person

30.—(1) No person shall knowingly sell or supply liquor to a person under nineteen years of age. Sale to person under nineteen

(2) No person shall sell or supply liquor to a person who appears to be under nineteen years of age. Idem

(3) No licensee or employee or agent of a licensee shall knowingly permit a person under nineteen years of age to have or consume liquor in the licensee's licensed premises. Permitting possession or consumption

(4) No licensee or employee or agent of a licensee shall permit a person who appears to be under nineteen years of Idem

age to have or consume liquor in the licensee's licensed premises.

Exception to
subss. (3)
and (4)

(5) Subsections (3) and (4) do not prohibit a licensee or employee or agent of a licensee from permitting a person eighteen years of age to be in possession of liquor during the course of the person's employment on the licensee's licensed premises.

Vendor may
rely on docu-
men-
tation

(6) A person who sells or supplies liquor to another person or permits another person to have or consume liquor in licensed premises on the basis of documentation of a prescribed type is not in contravention of subsection (2) or (4) if there is no apparent reason to doubt the authenticity of the documentation or that it was issued to the person producing it.

Court may
determine
apparent age

(7) In a prosecution for a contravention of subsection (2) or (4), the court may determine, from the appearance of the person and from other relevant circumstances, whether a person to whom liquor was served or supplied or a person who was permitted to have or consume liquor appears to be under nineteen years of age.

Possession or
consumption

(8) No person under nineteen years of age shall have, consume, attempt to purchase, purchase or otherwise obtain liquor.

Exception to
subs. (8)

(9) Subsection (8) does not prohibit a person eighteen years of age from being in possession of liquor during the course of the person's employment on premises in which the sale of liquor is authorized.

Entering
premises

(10) No person under nineteen years of age shall enter or remain on premises in which the sale of liquor is authorized if the person knows that a condition of the licence or permit for the premises prohibits the entry of persons under nineteen years of age.

Exception to
subs. (10)

(11) Subsection (10) does not apply to a person eighteen years of age who is employed on premises in which the sale of liquor is authorized while the person is on the premises during the course of his or her employment.

Improper
documen-
tation

(12) No person shall present as evidence of his or her age any documentation other than documentation that was lawfully issued to him or her.

Supply by
parent

(13) This section does not apply,

- (a) to the supplying of liquor to a person under nineteen years of age in a residence as defined in section 31 or in a private place as defined in the regulations by a parent of the person or a person having lawful custody of the person; or
- (b) to the consumption of liquor by a person who is supplied liquor in a manner described in clause (a), if the liquor is consumed at the place where it is supplied.

31.—(1) In this section, “residence” means a place that is actually occupied and used as a dwelling, whether or not in common with other persons, including all premises used in conjunction with the place to which the general public is not invited or permitted access, and, if the place occupied and used as a dwelling is a tent, includes the land immediately adjacent to and used in conjunction with the tent.

Unlawful
possession or
consumption

(2) No person shall have or consume liquor in any place other than,

Unlawful
possession or
consumption

- (a) a residence;
- (b) premises in respect of which a licence or permit is issued; or
- (c) a private place as defined in the regulations.

(3) Subsection (2) does not apply to the possession of liquor that is in a closed container.

Exception

(4) No person shall be in an intoxicated condition,

Intoxication

- (a) in a place to which the general public is invited or permitted access; or
- (b) in any part of a residence that is used in common by persons occupying more than one dwelling in the residence.

(5) A police officer may arrest without warrant any person whom he or she finds contravening subsection (4) if, in the opinion of the police officer, to do so is necessary for the safety of any person.

Arrest
without
warrant

32.—(1) No person shall drive or have the care or control of a motor vehicle as defined in the *Highway Traffic Act* or a motorized snow vehicle, whether it is in motion or not, while

Conveying
liquor in
vehicle
R.S.O. 1980,
c. 198

there is contained in the vehicle any liquor, except under the authority of a licence or permit.

Exception

(2) Subsection (1) does not apply if the liquor in the vehicle,

- (a) is in a container that is unopened and the seal unbroken; or
- (b) is packed in baggage that is fastened closed or is not otherwise readily available to any person in the vehicle.

Conveying
liquor in
boat

(3) No person shall operate or have the care or control of a boat that is underway while there is contained in the boat any liquor, except under the authority of a licence or permit.

Exception

(4) Subsection (3) does not apply if the liquor in the boat,

- (a) is in a container that is unopened and the seal unbroken; or
- (b) is stored in a closed compartment.

Search of
vehicle or
boat

(5) A police officer who has reasonable grounds to believe that liquor is being unlawfully kept in a vehicle or boat may at any time, without a warrant, enter and search the vehicle or boat and search any person found in it.

Definition

(6) In this section, "boat" includes any ship or boat or any other description of vessel used or designed to be used in the navigation of water.

Unlawful
consumption
or supply of
alcohol

33. No person shall,

- (a) drink alcohol in a form that is not a liquor; or
- (b) supply alcohol in a form that is not a liquor to another person, if the person supplying the alcohol knows or ought to know that the other person intends it to be used as a drink.

Removing
person from
premises

34.—(1) The holder of a licence or permit issued in respect of premises shall ensure that a person does not remain on the premises if the holder has reasonable grounds to believe that the person,

- (a) is unlawfully on the premises;
- (b) is on the premises for an unlawful purpose; or

(c) is contravening the law on the premises.

(2) The holder of a licence or permit may request a person referred to in subsection (1) to leave the premises immediately and if the request is not forthwith complied with may remove the person or cause the person to be removed by the use of no more force than is necessary. Idem

(3) If there are reasonable grounds to believe that a disturbance or breach of the peace sufficient to constitute a threat to the public safety is being caused on premises for which a licence or permit is issued, a police officer may require that all persons vacate the premises. Order to vacate premises

(4) The holder of the licence or permit for premises that are required to be vacated under subsection (3) shall take all reasonable steps to ensure that the premises are vacated. Idem

(5) A licensee or employee of a licensee who has reason to believe that the presence of a person on the licensee's licensed premises is undesirable may, Right to refuse entry

(a) request the person to leave; or

(b) forbid the person to enter the licensed premises.

(6) No person shall,

(a) remain on licensed premises after he or she is requested to leave by the licensee or an employee of the licensee; or Not to remain after request to leave

(b) re-enter the licensed premises on the same day he or she is requested to leave.

35.—(1) The council of a municipality may by by-law designate a recreational area within the municipality that is owned or controlled by the municipality as a place where the possession of liquor is prohibited. By-law designating recreational area

(2) A designation under subsection (1) does not prevent the Board from issuing any licence or permit under this Act. Non-application of subs. (1)

(3) No person shall have liquor in a place designated under subsection (1). Unlawful possession

(4) Subsection (3) does not apply to a person in possession of liquor under the authority of a licence or permit or in possession of liquor purchased on a premises in respect of which a licence or permit is issued. Exception to subs. (3)

Definition

(5) In this section, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford.

Taking to hospital in lieu of charge

36.—(1) A police officer who finds a person apparently in contravention of subsection 31 (4) may take the person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a hospital designated by the regulations.

Protection from liability

(2) No action or other proceeding for damages shall be instituted against any physician or any hospital or officer or employee of a hospital on the grounds only that the person examines or treats without consent a person who is brought to the hospital under subsection (1).

Detention in institution

37.—(1) If it appears that a person in contravention of subsection 31 (4) may benefit therefrom, the court making the conviction may order the person to be detained for treatment for a period of ninety days or such lesser period as the court thinks advisable in an institution designated by the regulations.

Idem

(2) If, at any time during a person's period of detention ordered under subsection (1), the superintendent of the institution is of the opinion that further detention in the institution will not benefit the person, the superintendent may release the person.

Advertising

38.—(1) No person shall advertise liquor except in accordance with the regulations.

Order of cessation

(2) If two members of the Board are of the opinion that an advertisement contravenes this Act or the regulations, the Board may order the cessation of the use of the advertisement.

Notice of order

(3) The Board shall serve notice of an order under subsection (2), together with reasons therefor, on the person to whom the order is directed.

Notice requiring hearing

(4) A notice of an order shall inform the person to whom the order is directed that the person is entitled to a hearing by the Board if the person mails or delivers to the Board, within fifteen days after the notice is served on the person, notice in writing requiring a hearing by the Board, and the person may so require such a hearing.

Commencement of order

(5) Unless otherwise provided in the order, an order under subsection (2) takes effect immediately.

(6) If a hearing is required, an order under subsection (2) expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the time of expiration until the hearing is concluded.

Expiry of
order

(7) If the Board is required to hold a hearing under subsection (4), the provisions of section 23 apply with necessary modifications to the hearing.

Application
of s. 23

(8) Following a hearing to consider an order under subsection (2), the Board may confirm, vary or rescind the order.

Powers

39. The following rules apply if a person or an agent or employee of a person sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate the person or increase the person's intoxication so that he or she would be in danger of causing injury to himself or herself or injury or damage to another person or the property of another person:

Civil liability

1. If the person to or for whom the liquor is sold commits suicide or meets death by accident while so intoxicated, an action under Part V of the *Family Law Act, 1986* lies against the person who or whose employee or agent sold the liquor.
2. If the person to or for whom the liquor is sold causes injury or damage to another person or the property of another person while so intoxicated, the other person is entitled to recover an amount as compensation for the injury or damage from the person who or whose employee or agent sold the liquor.

1986, c. 4

40.—(1) This Act does not prevent,

Exception for
drugs and
medicines

- (a) the sale of a drug dispensed as a medicine by a person authorized to do so under the *Health Disciplines Act*;
- (b) the sale of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of the *Health Disciplines Act* for a person under health care provided by the hospital or institution;
- (c) the sale of a medicine registered under the *Food*

R.S.O. 1980,
c. 196

R.S.C. 1985,
c. F-27

and Drugs Act (Canada), except a sale that contravenes clause 33 (b); or

- (d) the sale of a drug to a person authorized under the *Health Disciplines Act* to dispense, prescribe or administer drugs.

Idem

(2) This Act does not prevent the purchase of a drug or medicine pursuant to a sale described in subsection (1).

Exception for
research and
education

41. This Act does not prevent the possession, service or consumption of liquor for research or educational purposes as approved by the Board in accordance with the regulations.

Intoxicating
liquor
R.S.C. 1985,
c. I-3

42. Liquor shall be deemed to be an intoxicating liquor for purposes of the *Importation of Intoxicating Liquors Act* (Canada).

COMPLIANCE

Persons
designated by
chair

43.—(1) The chair of the Board may designate persons employed by the Board as persons who may carry out inspections for the purpose of determining whether there is compliance with this Act and the regulations.

Certificate of
designation

(2) A person designated under subsection (1) who is exercising a power under this Act shall, on request, produce his or her certificate of designation.

Inspections

44.—(1) For the purpose of ensuring compliance with this Act and the regulations, a person designated under subsection 43 (1) may,

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the inspection;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee or permit holder and into assets owned, held in trust, acquired or disposed of by a licensee or permit holder that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary; and

- (f) remove materials or substances for examination or test purposes subject to the licensee, permit holder or other occupant of the premises being notified thereof.

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier. Entry to dwellings

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant, Warrant

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to search for and seize any document or thing relevant to the inspection; or
- (c) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that, Requirements for warrant to issue

- (a) in the case of a warrant to be issued under clause (3) (a), a person designated under subsection 43 (1) has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there are reasonable grounds to believe that such a person may be prevented from doing any of those things;
- (b) in the case of a warrant to be issued under clause (3) (b), it is necessary to search for and seize a document or thing that there are reasonable grounds to believe will afford evidence relevant to a contravention of this Act or the regulations; or
- (c) in the case of a warrant to be issued under clause (3) (c), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there are reasonable grounds to believe is relevant to an inspection under this Act.

(5) A warrant issued under this section shall specify the hours and days during which it may be executed. Execution of warrant

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made. Expiry

Notice not
required

(7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.

Renewal of
warrant

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Experts

(9) A person carrying out an inspection under this Act is entitled to call upon such experts as are necessary to assist the person in carrying out the inspection.

Assistance

(10) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Copies

(11) A person carrying out an inspection under this Act who takes material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Admissibility
of copies

(12) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction

45.—(1) No person shall obstruct a person carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Facilitating
inspection

(2) It is a condition of each licence and permit issued under this Act that the licensee or permit holder facilitate an inspection relevant to the licence or permit.

Forfeiture of
liquor

46. Liquor kept for sale or offered for sale in contravention of subsection 5 (1) and liquor purchased in contravention of section 27 is forfeited to the Crown.

Seizure of
liquor

47.—(1) If liquor is found by a police officer under circumstances where the liquor constitutes evidence necessary to prove a contravention of this Act, or if an offence appears to have been committed under this Act and a police officer, on reasonable grounds, in view of the offence apparently committed and the presence of liquor, believes that a further offence is likely to be committed, the police officer may seize and take away the liquor and the packages in which it is kept.

(2) A provincial offences court may, upon the application of any person made within thirty days of a seizure under subsection (1), order that the things seized be restored forthwith to the applicant if the court is satisfied that,

Order of
restoration

- (a) the applicant is entitled to possession of the things seized; and
- (b) the things seized are not required as evidence in any proceeding.

(3) If the court is satisfied that an applicant under subsection (2) is entitled to possession of the things seized but is not satisfied as to the matter mentioned in clause (2) (b), it shall order that the things seized be restored to the applicant,

Idem

- (a) upon the expiration of three months from the date of the seizure, if no proceeding in respect of an offence has been commenced; or
- (b) upon the final conclusion of any such proceeding.

(4) If no application has been made for the return of a thing seized under subsection (1) or an application has been made but upon the hearing of the application no order of restoration has been made, the thing seized is forfeited to the Crown.

Forfeiture

(5) If a person is convicted of an offence under this Act, any thing seized under subsection (1) by means of which the offence was committed is forfeited to the Crown.

Idem

48. If a police officer finds a person apparently in contravention of this Act and the person refuses to give his or her name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant.

Arrest
without
warrant

49.—(1) Every person engaged in the administration of this Act shall preserve confidentiality in respect of all matters that come to his or her knowledge in the course of his or her duties and shall not communicate any such matter to any other person except,

Confiden-
tiality

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act;
- (b) to his or her counsel; or

- (c) with the consent of the person to whom the matter relates.

Testimony in
civil
proceeding

(2) No person engaged in the administration of this Act shall be required to give testimony in any civil proceeding with regard to information obtained by the person in the course of the person's duties except in a proceeding under this Act.

Chair's
certificate

50. A statement as to any of the following matters purporting to be certified by the chair of the Board is admissible in evidence in any proceeding without proof of the office or signature of the chair and is proof, in the absence of evidence to the contrary, of the information set out in the statement:

1. The issuance or non-issuance of a licence or permit.
2. The filing or non-filing of any document or material required or permitted to be filed with the Board.
3. Any matter in addition to those referred to in paragraphs 1 and 2 that pertains to licences or permits or filing or non-filing.
4. The time when the facts upon which a proceeding is based first came to the knowledge of the Board.

Analyst's
certificate or
report

51. A certificate or report purporting to be signed by a federal or provincial analyst as to the composition of any liquor or any other substance is admissible in any proceeding under this Act as evidence of the information set out in the certificate or report and of the authority of the person giving it or making it, without proof of the appointment or signature of the person.

LOCAL OPTION

Prohibited
areas

52.—(1) Subject to section 53 and the regulations, no licence to sell liquor may be issued for premises in a municipality or part thereof in which the sale of liquor under a licence was prohibited under the law as it existed immediately before the date this Act comes into force.

Idem

(2) Subject to section 53 and the regulations, no government store may be established in a municipality or part thereof in which the sale of liquor in a government store was prohibited under the law as it existed immediately before the date this Act comes into force.

(3) Despite subsection (2), government stores may be established in a municipality or part thereof in which it is lawful to issue licences to sell liquor. Exception

(4) Despite subsections (1) and (2), Idem

(a) a government store established before the 1st day of January, 1990 shall be deemed to have been lawfully established; and

(b) a licence to sell liquor issued before the 1st day of January, 1990 shall be deemed to have been lawfully issued.

(5) Subject to section 53 and the regulations, in a municipality or part thereof in which, under the law as it existed immediately before the date this Act comes into force, the sale of beer and wine only was permitted in licensed premises, a licence to sell liquor shall be deemed to contain a condition that beer and wine only may be sold in the licensed premises. Sale of beer and wine only

53.—(1) The council of a municipality may submit to a vote one or more of the prescribed questions respecting the authorization of the sale of liquor in the municipality. Local option to authorize sale

(2) The council of a municipality shall submit to a vote such prescribed questions respecting the authorization of the sale of liquor in the municipality as are requested by a petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election. Idem

(3) Government stores may be established in a municipality in which 60 per cent of the electors voting on a question vote in favour of the sale of liquor in government stores. Establishing stores

(4) Licences to sell liquor may be issued for premises in a municipality in which 60 per cent of the electors voting on a question vote in favour of the sale of liquor in licensed premises. Issuing licences

54.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may submit to a vote one or more of the prescribed questions respecting the prohibition of the sale of liquor in the municipality. Local option to cease sale

(2) The council of a municipality shall submit to a vote such prescribed questions respecting the prohibition of the sale of liquor in the municipality as are requested by a petition signed Idem

by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election.

Closing
stores

(3) If 60 per cent of the electors voting on a question vote in favour of prohibiting the sale of liquor in government stores, all government stores established in the municipality shall be closed as of the 31st day of March in the following year.

Revoking
licences

(4) If 60 per cent of the electors voting on a question vote in favour of prohibiting the sale of liquor in licensed premises, all licences to sell liquor issued for premises in the municipality shall be deemed to be revoked as of the 31st day of March in the following year.

No right to
a hearing

(5) Sections 15 and 21 do not apply where a licence is deemed to be revoked under subsection (4).

Day of
polling

R.S.O. 1980,
c. 308

55.—(1) Subject to subsection (2), the day fixed for taking a vote on any question under section 53 or 54 shall be the polling day of the next regular election under the *Municipal Elections Act*, unless the council of the municipality, with the approval of the Board, fixes some other day and so notifies the clerk of the municipality.

Idem

(2) A poll shall not be held on any question until after sixty days from,

- (a) the filing of the petition requiring the question to be submitted; or
- (b) the date the council approves the submission of the question, if the council submits the question without a petition.

Eligible
voters

R.S.O. 1980,
c. 308

56. The persons eligible to vote on a question under section 53 or 54 are the persons who would be eligible to vote at an election held under the *Municipal Elections Act* on the day fixed for taking the vote on the question.

Application
of
R.S.O. 1980,
c. 308

57. The provisions of the *Municipal Elections Act* apply to the taking of a vote under this Act.

Return to
Board

58.—(1) The returning officer shall make a return to the Board showing the number of votes polled for the affirmative and negative on each question submitted.

Idem

(2) Upon receiving the return, the Board shall give notice of the return in *The Ontario Gazette*, showing the total num-

ber of votes polled in the municipality for the affirmative and negative on each question.

59. If a question under section 53 or 54 is submitted for a vote in a municipality or part thereof, no further vote may be held in the municipality or part on any question under section 53 or 54 until after thirty-five months from the date of the vote on the question.

Resubmitting questions

60.—(1) The status under this Act of a municipality that is amalgamated with another municipality that has a different status,

Amalgamation does not affect status

- (a) is not affected by the amalgamation; and
- (b) may be changed only by a vote under this Act in the municipality amalgamated.

(2) The status under this Act of a municipality or part of a municipality that is annexed to another municipality that has a different status,

Annexation does not affect status

- (a) is not affected by the annexation; and
- (b) may be changed only by a vote under this Act in the municipality or part annexed.

(3) In a municipality amalgamated or municipality or part annexed to which subsection (1) or (2) applies, the persons qualified to sign a petition under section 53 or 54 are the persons whose names appear on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be.

Who may sign petition

(4) In a municipality amalgamated or municipality or part annexed to which subsection (1) or (2) applies, the persons eligible to vote on a question under section 53 or 54 are the persons who would be eligible to vote at an election held under the *Municipal Elections Act* in the municipality amalgamated or municipality or part annexed, as the case may be.

Who may vote

R.S.O. 1980, c. 308

OFFENCES

61.—(1) A person is guilty of an offence if the person,

Offences

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act;

- (b) knowingly fails to comply with an order under subsection 38 (2); or
 - (c) contravenes any provision of this Act or the regulations.
- Derivative (2) A director or officer of a corporation who caused, authorized, permitted or participated in an offence under this Act by the corporation is guilty of an offence.
- Penalties (3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year or both.
- Idem (4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$100,000.
- Additional penalty (5) In addition to any other penalty or action under this Act, the licence of a licensee who contravenes subsection 30 (1) or (2) shall be suspended for a period of not less than seven days.
- Minimum fine (6) If a licensee contravenes subsection 30 (1), (2), (3) or (4), the fine imposed under this section shall be not less than \$500.
- Idem (7) If a person who is not a licensee contravenes subsection 30 (1), (2), (3) or (4), the fine imposed under this section shall be not less than \$100.
- Limitation (8) Subject to subsection (9), no proceeding under this section shall be commenced more than two years after the offence was committed.
- Idem (9) No proceeding under clause (1) (a) and no proceeding under subsection (2) that relates to a matter referred to in clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board.

REGULATIONS

- Regulations **62.**—(1) The Lieutenant Governor in Council may make regulations,
- 1. prescribing anything that is referred to in this Act as being prescribed;
 - 2. governing the issuance, renewal, transfer and expiry of licences;

3. governing the issuance and expiry of permits;
4. prescribing conditions that attach to licences and permits;
5. prescribing the special occasions for which permits may be issued;
6. prescribing fees for the purposes of this Act and the regulations, including fees payable in respect of late applications and late payment of fees;
7. requiring the payment of fees;
8. exempting any person, product or premises from any provision of this Act or the regulations;
9. requiring licensees and permit holders to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;
10. controlling the advertising of liquor or its availability for sale and requiring that advertisements be subject to the approval of the Board;
11. prescribing standards for licensed premises and premises used by permit holders for the sale and service of liquor;
12. prescribing or prohibiting methods and practices in connection with the serving of liquor;
13. prohibiting licensees and permit holders from permitting any person to engage in prescribed activities on their premises;
14. governing the sale and service of liquor by a holder of a licence to sell liquor in a place other than licensed premises;
15. prescribing classes of premises on which a person under the age of nineteen years may not enter;
16. prescribing rules for proceedings before the Board;
17. governing the issuance of documentation for proof of age;

18. prescribing hours of sale of liquor;
19. authorizing the Board to extend the hours of sale of liquor during events of municipal, provincial, national or international significance;
20. prohibiting manufacturers and employees, agents and licensed representatives of manufacturers from offering or giving inducements or engaging in prescribed practices with respect to the sale or promotion of liquor;
21. prescribing the circumstances in which a manufacturer or employee, agent or licensed representative of a manufacturer may give liquor as a gift;
22. prescribing the circumstances in which a manufacturer may obtain a licence to sell liquor despite subsection 6 (4);
23. regulating and controlling the possession and delivery of liquor sold under a licence or permit;
24. authorizing the Board to approve liquor server training courses;
25. authorizing the Board to approve a temporary physical extension of licensed premises;
26. authorizing the Board to exempt any person from the requirement to provide information in respect of an application for a licence or permit;
27. governing the approval by the Board of the possession, service or consumption of liquor for research or educational purposes;
28. prescribing the circumstances in which, following a prescribed change of ownership in respect of a licence, liquor may be kept for sale, offered for sale or sold or delivered for a fee under the authority of the licence despite subsection 16 (1) or (2);
29. designating classes of persons for the purpose of section 19;
30. defining "private place" for purposes of sections 30 and 31;
31. designating hospitals for purposes of section 36;

32. designating institutions for purposes of section 37, governing the transfer and admission of persons to and detention of persons in such institutions and providing for the management of such institutions;
33. prescribing licences that may be issued in a municipality despite section 52;
34. prohibiting or regulating and controlling the possession of liquor in provincial parks, in a park managed or controlled by The Niagara Parks Commission, The St. Lawrence Parks Commission, The St. Clair Parkway Commission or on lands owned or controlled by a conservation authority established or continued under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

(2) A regulation may be general or particular in its application.

Scope of
regulations

(3) Any provision of a regulation may be subject to such conditions, qualifications or requirements as are specified in the regulation.

Conditions,
qualifications,
requirements

MISCELLANEOUS

63.—(1) A licence under a predecessor to this Act continues in force until it expires or is earlier revoked or suspended.

Transition,
licence

(2) A permit under a predecessor to this Act continues in force until it expires or is earlier revoked.

Idem, permit

(3) A registration as an agent or representative of a manufacturer under a predecessor to this Act continues in force until it expires or is earlier revoked or suspended.

Idem,
registration

(4) A decision of the Board under section 12 of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, that is issued before the date this Act comes into force may be appealed to The Commercial Registration Appeal Tribunal in accordance with section 14 of that Act.

Appeal to
C.R.A.T.

64. The following are repealed:

Repeals

1. The *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980.
2. The *Liquor Licence Amendment Act, 1981*, being chapter 1.

3. Item 7 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.
4. The *Liquor Licence Amendment Act, 1984*, being chapter 4.
5. The *Liquor Licence Amendment Act, 1986*, being chapter 60.

1981, c. 53

65. Section 19 of the *Human Rights Code, 1981*, as amended by the Statutes of Ontario, 1986, chapter 64, section 18, is further amended by adding the following subsection:

Minimum
drinking age

(2) The right under section 1 to equal treatment with respect to services, goods and facilities without discrimination because of age is not infringed by the provisions of the *Liquor Licence Act, 1990* and the regulations under it relating to providing for and enforcing a minimum drinking age of nineteen years.

1990, c. ...

Commence-
ment

66. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title


67. The short title of this Act is the *Liquor Licence Act, 1990*.

Bill 175

An Act to revise the Liquor Licence Act and to amend the law relating to Liquor

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations



<i>1st Reading</i>	June 4th, 1990
<i>2nd Reading</i>	June 18th, 1990
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill replaces the *Liquor Licence Act*. Some features of the Bill are as follows:

1. The definition of manufacturer is expanded to include foreign manufacturers.
2. The maximum size of the Liquor Licence Board of Ontario is increased from seven to nine members.
3. The Bill provides for licences to sell liquor, licences to deliver liquor, licences to represent a manufacturer, manufacturers' licences and special occasion permits.
4. A licence to deliver liquor will be required in order to deliver liquor for a fee.
5. In considering an application for a licence to sell liquor, the Board will hear representations from local residents only if it has received written objections from residents.
6. Appeals from Board decisions will be made to the Divisional Court and not to The Commercial Registration Appeal Tribunal.
7. The Board will be authorized to disqualify premises for purposes of issuing special occasion permits on the grounds of a violation of the law at a previous event held on the premises.
8. Licensees will be prohibited from permitting persons under nineteen to have or consume liquor on licensed premises.
9. The consumption of liquor in a private place will be permitted. Private place will be defined in the regulations.
10. Interdiction orders prohibiting the sale of liquor to an individual are discontinued.
11. The *Human Rights Code, 1981* is amended to reflect the minimum legal drinking age of nineteen.

Bill 175

1990

An Act to revise the Liquor Licence Act and to amend the law relating to Liquor

CONTENTS

Section

1. Definitions

BOARD

2. Liquor Licence Board of Ontario
3. Member or employee designated by chair
4. Bargaining unit and agent

LICENCES AND PERMITS

5. Licence or permit required
6. Licence to sell
7. Public notice of application
8. Member to consider application
9. Public meeting
10. Licence to deliver
11. Licence to represent manufacturer
12. Issuance of licence
13. Continuance pending renewal
14. Imposition of new conditions on licence
15. Revocation, suspension or refusal to renew
16. Change of ownership of business
17. Transfer of licence
18. Temporary transfer of licence
19. Special occasion permit
20. Disqualification of premises
21. Notice of proposal
22. Manufacturer's licence to sell to L.C.B.O.

HEARINGS

23. Hearing
24. Reviewing decision or order
25. Appeal to Divisional Court
26. Service

RESPONSIBLE USE

27. Unlawful purchase
28. Unlawful gift
29. Sale to intoxicated person

Section

30. Sale to person under nineteen
31. Unlawful possession or consumption
32. Conveying liquor in vehicle or boat
33. Unlawful consumption or supply of alcohol
34. Removing person from premises
35. By-law designating recreational area
36. Taking to hospital in lieu of charge
37. Detention in institution
38. Advertising
39. Civil liability
40. Exception for drugs and medicines
41. Exception for research and education
42. Intoxicating liquor

COMPLIANCE

43. Persons designated by chair
44. Inspections
45. Obstruction
46. Forfeiture of liquor
47. Seizure of liquor
48. Arrest without warrant
49. Confidentiality
50. Chair's certificate
51. Analyst's certificate or report

LOCAL OPTION

52. Prohibited areas
53. Local option to authorize sale
54. Local option to cease sale
55. Day of polling
56. Eligible voters
57. Application of *Municipal Elections Act*
58. Return to Board
59. Resubmitting questions

Section

60. Amalgamation does not affect
status

OFFENCES

61. Offences

REGULATIONS

62. Regulations

Section

MISCELLANEOUS

63. Transition

64. Repeals

65. *Human Rights Code, 1981*
amended

66. Commencement

67. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“alcohol” means a product of fermentation or distillation of grains, fruits or other agricultural products, and includes synthetic ethyl alcohol;

“beer” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;

“Board” means the Liquor Licence Board of Ontario;

“government store” means a government store established under the *Liquor Control Act*;

R.S.O. 1980,
c. 243

“licence” means a licence issued under this Act;

“liquor” means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter;

“manufacturer” means a person who produces liquor for sale;

“municipality” means a city, town, village or township;

“Ontario wine” means,

- (a) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof and includes Ontario wine to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario,

- (b) wine produced by the alcoholic fermentation of Ontario honey, with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine, or
- (c) wine produced from a combination of,
 - (i) apples grown in Ontario or the concentrated juice thereof to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario, and
 - (ii) the concentrated juice of apples grown outside of Ontario,

in such proportion as is prescribed;

“permit” means a permit issued under this Act;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

“sell” means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and “sale” has a corresponding meaning;

“spirits” means any beverage containing alcohol obtained by distillation;

“wine” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

BOARD

2.—(1) The Liquor Licence Board is continued as the Liquor Licence Board of Ontario.

Liquor
Licence
Board of
Ontario

(2) The Board shall consist of not more than nine members appointed by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council may designate one member of the Board as chair and one or more members as vice-chairs.

Chair and
vice-chair

(4) The chair is the chief executive officer of the Board.

Idem

- Idem (5) If the chair is absent or is unable to act, a vice-chair designated by the chair shall have all the powers and duties of the chair.
- Term (6) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.
- Remuneration (7) The members of the Board shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council.
- Non-application of R.S.O. 1980, c. 95 (8) The Board is a corporation to which the *Corporations Act* does not apply.
- Duties (9) The Board shall perform such duties as are assigned to it under this and any other Act and shall administer and enforce this Act and the regulations.
- Staff (10) The Board may employ such persons as are considered necessary and may, subject to the approval of the Lieutenant Governor in Council, establish job categories, salary ranges and terms and conditions of employment.
- Finances (11) The revenues of the Board shall be paid to the Treasurer of Ontario and the money required for the expenditures of the Board shall be paid out of the money appropriated therefor by the Legislature.
- Member designated by chair **3.—**(1) A function referred to in this Act or the regulations as being performed by a member of the Board may be performed by one or more members designated by the chair of the Board.
- Employee designated by chair (2) A function referred to in this Act or the regulations as being performed by an employee of the Board may be performed by one or more employees designated by the chair of the Board.
- Bargaining unit and agent under R.S.O. 1980, c. 108 **4.** For the purposes of the *Crown Employees Collective Bargaining Act*, and subject to any further designation under that Act,
- (a) the persons employed in the work of the Board are designated as a unit of employees that is an appropriate bargaining unit for collective bargaining purposes; and

- (b) the Ontario Liquor Boards Employees' Union is designated as the employee organization that has representation rights in relation to the bargaining unit.

LICENCES AND PERMITS

5.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit to sell liquor or under the authority of a manufacturer's licence.

Licence or
permit
required

(2) No person shall canvass for, receive or solicit orders for the sale of liquor unless the person is the holder of a licence or permit to sell liquor or unless the person is the holder of a licence to represent a manufacturer.

Soliciting
orders

(3) No person shall deliver liquor for a fee except under the authority of a licence to deliver liquor.

Delivery for
fee

(4) Subsections (1), (2) and (3) do not apply to the sale or delivery of liquor by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*.

Exception

R.S.O. 1980,
c. 243

6.—(1) A person may apply to the Board for a licence to sell liquor.

Licence to
sell

(2) Subject to subsection (4), an applicant is entitled to be issued a licence to sell liquor except if,

Requirements

- (a) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's business;
- (b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) the applicant is a corporation and a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (d) the past or present conduct of the persons referred to in subsection (3) affords reasonable grounds for belief that the applicant will not carry on business in accordance with the law and with integrity and honesty;

- (e) the applicant or an employee or agent of the applicant makes a false statement or provides false information in an application under this Act;
- (f) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;
- (g) the premises, accommodation, equipment and facilities in respect of which the licence is to be issued are not, or will not be, if the applicant is licensed, in compliance with this Act and the regulations; or
- (h) the licence is not in the public interest having regard to the needs and wishes of the residents of the municipality in which the premises are located.

Idem

(3) Clause (2) (d) applies to the following persons:

1. The applicant.
2. An officer or director of the applicant.
3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.
4. A person having a beneficial interest in the business of the applicant.
5. A person having responsibility for the management or operation of the business of the applicant.


Prohibition


(4) Except as permitted by the regulations, a licence to sell liquor shall not be issued,

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;
- (b) to a manufacturer or to a person who is so associated or connected therewith or financially interested therein as to be likely to promote the sale of liquor of that manufacturer;
- (c) to a person who by reason of an agreement, arrangement or understanding with any person is likely to promote the sale of liquor of any manufacturer;

- (d) to a person for premises in which a manufacturer has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any personal property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee; or
- (e) to a person in respect of a business in which a manufacturer has an interest by way of a franchise agreement.

(5) In this section, “equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing. Definition

 **7.**—(1) Subject to subsection (2), the Board shall give notice of an application for a licence to sell liquor to the residents of the municipality in which the premises are located by giving notice, Public notice of application

- (a) in the prescribed manner in a newspaper having general circulation in the municipality; and
- (b) in any other manner that is prescribed. 

(2) The Board is not required to give notice under subsection (1) if the applicant for the licence is disqualified under clauses 6 (2) (a) to (g) or subsection 6 (4). Exception

(3) In a notice given under subsection (1), the Board shall request from the residents of the municipality written submissions as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents. Submissions

(4) Written submissions concerning an application shall be made in the prescribed manner and within the prescribed time. Idem

8.—(1) A member of the Board shall consider an application for a licence to sell liquor. Member to consider application

(2) If, after giving notice of an application under subsection 7 (1), the Board receives no written objections to the application from the residents of the municipality within the time for making submissions, the member may, No objections

- (a) approve the application if the applicant is not disentitled under subsection 6 (2) or (4); or
- (b) direct that a proposal to review the application be issued.

Conditions
on consent

(3) A member who approves an application under clause (2) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Objections

(4) If, after giving notice of an application under subsection 7 (1), the Board receives one or more written objections to the application from the residents of the municipality within the time for making submissions, the member may,

- (a) call a public meeting; or
- (b) direct that a proposal to review the application be issued.

No notice

(5) If no notice of an application is given under subsection 7 (1) because the applicant is disentitled under clauses 6 (2) (a) to (g) or subsection 6 (4), the member shall direct that a proposal to review the application be issued.

Public
meeting

9.—(1) If a public meeting is called under clause 8 (4) (a), the Board shall give notice in the prescribed manner of a time and place for the meeting.

Member to
conduct
meeting

(2) A member of the Board shall conduct the public meeting.

Represent-
ations by
residents

(3) The member shall receive representations from the residents of the municipality in which the premises are located as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents.

Idem

(4) The member shall consider the representations of the residents in determining whether to approve the application.

Member to
consider
application

(5) After the meeting has been held, the member shall consider the application and may,

- (a) approve the application if the applicant is not disentitled under subsection 6 (2) or (4); or
- (b) direct that a proposal to review the application be issued.

(6) A member who approves an application under clause (5) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Conditions
on consent

10.—(1) A person may apply to the Board for a licence to deliver liquor.

Licence to
deliver

(2) Subject to subsection (5), an applicant for a licence to deliver liquor is entitled to the issuance of the licence unless the applicant is disqualified for any ground under clauses 6 (2) (a) to (g).

Requirements

(3) An application for a licence shall be considered by a member of the Board and the member may,

Member to
consider
application

- (a) approve the application if the applicant is not disqualified under subsection (2); or
- (b) direct that a proposal be issued to refuse to issue the licence.

(4) A member who approves an application for a licence under clause (3) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Conditions
on consent

(5) A licence to deliver liquor shall not be issued,

Prohibition

- (a) to a person who is under agreement with any person to sell or deliver the liquor of any manufacturer;
- (b) to a manufacturer or to a person who is so associated or connected therewith or financially interested therein as to be likely to promote the sale or delivery of liquor of that manufacturer; or
- (c) to a person who by reason of an agreement, arrangement or understanding with any person is likely to promote the sale or delivery of liquor of any manufacturer.

11.—(1) No person shall directly or indirectly act as or purport to be an agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer unless the person is the holder of a licence to represent that manufacturer.

Licence to
represent
manufacturer

(2) A person may apply to the Board for a licence to represent a manufacturer.

Applying for
licence

- Requirements (3) An applicant for a licence to represent a manufacturer is entitled to the issuance of the licence unless the applicant is disentitled for any ground under clause 6 (2) (d), (e) or (f).
- Member or employee to consider application (4) An application for a licence shall be considered by a member or employee of the Board and the member or employee may,
- (a) approve the application if the applicant is not disentitled under subsection (3); or
 - (b) direct that a proposal be issued to refuse to issue the licence.
- Conditions on consent (5) A member or employee who approves an application for a licence under clause (4) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.
- Not transferable (6) A licence to represent a manufacturer is not transferable.
- Issuance of licence **12.—**(1) The Board shall issue a licence to sell liquor, a licence to deliver liquor or a licence to represent a manufacturer to an applicant therefor whose application is approved by a member or employee of the Board or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.
- Conditions of licence (2) A licence is subject to such conditions as may be consented to by the applicant or licensee, imposed by the Board or prescribed.
- Limit on further applications (3) If the issuance of a licence to sell liquor is refused on the ground under clause 6 (2) (h), no further application may be made for a licence for the same premises within two years after the date of the refusal.
- Exception (4) If a member of the Board is satisfied that there has been a significant change in the circumstances that pertained at the time the application was refused, the Board may permit a re-application within the two-year period referred to in subsection (3).
- Continuance pending renewal **13.** If, within the time prescribed therefor or, if no time is prescribed, before expiry of a licence, the licensee has applied for renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,
- (a) until the renewal is granted; or

- (b) if the licensee is served with notice of a proposal to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, if a hearing is required, until the order has become final.

14.—(1) A member or employee of the Board may at any time review a licence and may,

Imposition of
new
conditions on
licence

- (a) attach to the licence any further conditions consented to by the licensee; or
- (b) direct that a proposal be issued to attach to the licence such further conditions as the member or employee considers proper to give effect to the purposes of this Act.

(2) A member or employee of the Board may, on the application of a licensee, remove a condition of a licence, other than a prescribed condition, if there is a change in circumstances.

Removal of
conditions

(3) A member or employee of the Board who, upon considering an application for removal of a condition, decides not to remove the condition shall direct that a proposal be issued to refuse to remove the condition.

Idem

15.—(1) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to sell liquor or refuse to renew such a licence for any ground under subsection 6 (2) or (4) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Revocation,
suspension or
refusal to
renew licence
to sell liquor

(2) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to deliver liquor or refuse to renew such a licence for any ground under clauses 6 (2) (a) to (g) or subsection 10 (5) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem, licence
to deliver
liquor

(3) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to represent a manufacturer or refuse to renew such a licence for any ground under clause 6 (2) (d), (e) or (f) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem, licence
to represent
manufacturer

Idem,
manufac-
turer's
licence

(4) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a manufacturer's licence or refuse to renew such a licence for any ground under clause 6 (2) (d), (e), (f) or (g) or if the licensee has contravened this Act, the regulations or a condition of the licence.

Interim
suspension of
licence

(5) If a proposal is issued to revoke or suspend a licence, the Board may by order suspend the licence prior to a hearing if two members of the Board consider it to be necessary in the public interest.

Idem

(6) An order to suspend a licence under subsection (5) takes effect immediately and, if a hearing is required, expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the time of expiration until the hearing is concluded.

Voluntary
cancellation

(7) The Board may cancel a licence upon the request in writing of the licensee and the surrender of the licence by the licensee.

Change of
ownership of
business

16.—(1) Except as permitted by the regulations, if there is a prescribed change of ownership of a business carried on under a licence, no person shall keep for sale, offer for sale or sell liquor or deliver liquor for a fee under the authority of the licence unless the licence is transferred by the Board in accordance with this Act and the regulations.

Change of
ownership of
corporate
licensee

(2) Except as permitted by the regulations, if there is a prescribed change of ownership of a licensee that is a corporation, the licensee shall not keep for sale, offer for sale or sell liquor or deliver liquor for a fee under the authority of the licensee's licence unless the licence is transferred by the Board in accordance with this Act and the regulations.

Transfer of
licence

17.—(1) A person may apply to the Board for the transfer of a licence to sell liquor or a licence to deliver liquor.

Require-
ments,
licence to sell
liquor

(2) An applicant for the transfer of a licence to sell liquor is entitled to the transfer except if the applicant would not be entitled to the issuance of a licence for any ground under clauses 6 (2) (a) to (g) or subsection 6 (4).

Idem, licence
to deliver
liquor

(3) An applicant for the transfer of a licence to deliver liquor is entitled to the transfer except if the applicant would not be entitled to the issuance of a licence for any ground under clauses 6 (2) (a) to (g) or subsection 10 (5).

(4) An application for a transfer of a licence shall be considered by a member of the Board and the member may, Member to consider application

(a) approve the application if the applicant is not disentitled under subsection (2) or (3); or

(b) direct that a proposal be issued to refuse to transfer the licence.

(5) A member of the Board who approves an application under clause (4) (a) may specify any conditions consented to by the applicant that are to be attached to the licence. Conditions on consent

(6) The Board shall transfer a licence to an applicant whose application is approved by a member of the Board or by the Board, who complies with this Act and the regulations and who pays the prescribed fee. Transfer

(7) A licence transferred under this section is subject to such conditions as may be consented to by the applicant, imposed by the Board or prescribed. Conditions of licence

18.—(1) The Board, in accordance with the regulations, may transfer a licence to sell liquor for a period of not more than one year to permit the orderly disposition of the business carried on under the licence. Temporary transfer of licence

(2) Subsection 17 (2) does not apply to a temporary transfer under this section. Idem

19.—(1) A person may apply to the Board for a permit authorizing the holder thereof to sell or serve liquor on a prescribed special occasion. Special occasion permit

(2) An applicant for a permit for a special occasion is entitled to be issued the permit except if, Requirements

(a) the applicant would not be entitled to the issuance of a licence to sell liquor for any ground under clauses 6 (2) (d) to (g) or subsection 6 (4); or

(b) the premises for which the permit is applied are disqualified under section 20.

(3) In this section, “authorized person” means a person within a class of persons designated by the regulations. Definition

(4) An application for a permit shall be considered by a member of the Board or an authorized person and the member or authorized person may, Person to consider application

(a) approve the application if the applicant is not disentitled under subsection (2); or

(b) direct that a proposal be issued to refuse to issue the permit.

Conditions
on consent

(5) A member or authorized person who approves an application for a permit may specify any conditions consented to by the applicant that are to be attached to the permit.

Issuance of
permit

(6) The Board shall issue a permit to an applicant therefor whose application is approved by a member of the Board or an authorized person or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.

Conditions of
permit

(7) A permit is subject to such conditions as may be consented to by the applicant or permit holder, imposed by the Board or prescribed.

Imposition of
new
conditions on
permit

(8) A member or employee of the Board may at any time review a permit and may,

(a) attach to the permit any further conditions consented to by the permit holder; or

(b) direct that a proposal be issued to attach to the permit such further conditions as the member or employee considers proper to give effect to the purposes of this Act.

Removal of
conditions

(9) A member or employee of the Board may, on the application of a permit holder, remove a condition of a permit, other than a prescribed condition, if there is a change in circumstances.

Idem

(10) A member or employee of the Board who, upon considering an application for removal of a condition, decides not to remove the condition shall direct that a proposal be issued to refuse to remove the condition.

Revocation
of permit

(11) A member or employee of the Board may direct that a proposal be issued to revoke a permit for any ground that would disentitle the holder to a permit if the holder were an applicant under subsection (2) or if the holder has contravened this Act, the regulations or a condition of the permit.

Immediate
revocation of
permit

(12) If a proposal is issued to revoke a permit, the Board may by order revoke the permit prior to a hearing if two members of the Board,

- (a) consider it to be necessary in the public interest;
- (b) are satisfied that false information has been furnished in an application for the permit;
- (c) are satisfied that the holder has contravened this Act, the regulations or a condition of the permit; or
- (d) determine that the premises for which the permit is issued are disqualified under section 20.

(13) An order to revoke a permit under subsection (12) Idem takes effect immediately.

20.—(1) A member or employee of the Board may direct that a proposal be issued to disqualify premises for purposes of issuing permits under section 19 on the grounds of a contravention of the law that has occurred at a previous event held on the premises. Disqualification of premises

(2) If a proposal is issued to disqualify premises, the Board may by order disqualify the premises prior to a hearing, if two members of the Board consider it to be necessary in the public interest. Interim disqualification of premises

(3) An order to disqualify premises under subsection (2) Idem takes effect immediately and, if a hearing is required, expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the period of disqualification until the hearing is concluded.

21.—(1) If a member or employee of the Board directs that a proposal be issued with respect to any of the following matters, the Board shall serve notice of the proposal together with written reasons therefor on the applicant or licensee: Notice of proposal

1. Review an application for a licence to sell liquor.
2. Refuse to issue a licence to deliver liquor or a licence to represent a manufacturer.
3. Refuse to renew a licence.
4. Refuse to transfer a licence, other than a manufacturer's licence.
5. Suspend or revoke a licence.
6. Attach a condition to a licence.

7. Refuse to remove a condition of a licence.

Idem

(2) If a member or employee of the Board or an authorized person under section 19 directs that a proposal be issued with respect to any of the following matters, the Board shall serve notice of the proposal together with written reasons therefor on the applicant or permit holder:

1. Refusing to issue a permit.
2. Revoking a permit.
3. Attaching a condition to a permit.
4. Refusing to remove a condition of a permit.

Idem

(3) If a member or employee of the Board directs that a proposal be issued to disqualify premises under section 20, the Board shall serve notice of the proposal together with written reasons therefor on the owner of the premises.

Notice
requiring
hearing

(4) A notice of a proposal shall inform the applicant, licensee, permit holder or owner that the person is entitled to a hearing by the Board if the person mails or delivers to the Board, within fifteen days after the notice is served on the person, notice in writing requiring a hearing by the Board, and the person may so require such a hearing.

No hearing

(5) If a person to whom a notice is sent under this section does not require a hearing by the Board, the Board may,

- (a) in the case of a notice of a proposal to review an application for a licence to sell liquor, refuse to issue the licence; or
- (b) in any case other than that referred to in clause (a), carry out the proposal stated in the notice.

Manufactur-
er's
licence to sell
to L.C.B.O.
R.S.O. 1980,
c. 243

22.—(1) A manufacturer of spirits, beer or Ontario wine may apply to the Board for a licence to sell the spirits, beer or Ontario wine to the Liquor Control Board of Ontario under the *Liquor Control Act*.

Issuance

(2) The Board may issue a manufacturer's licence to an applicant under this section.

Conditions

(3) A manufacturer's licence is subject to such conditions as may be imposed by the Board or prescribed.

(4) The Board, in accordance with the regulations, may transfer a manufacturer's licence. Transfer

(5) The Board's decision to issue or transfer or to refuse to issue or transfer a manufacturer's licence is final. Decision final

(6) The Board shall notify the Minister of Consumer and Commercial Relations of every licence issued or transferred under this section. Notice to Minister

HEARINGS

23.—(1) If the Board is required to hold a hearing under subsection 21 (4), two members of the Board shall constitute a quorum of the Board for purposes of the hearing and decision. Hearing

(2) Despite subsection (1), the chair of the Board may direct that a particular matter be heard and decided by one member of the Board, except for a hearing to consider a proposal that is based on the ground under clause 6 (2) (h). Idem

(3) A member holding a hearing must not have taken part in any consideration of the subject-matter of that particular hearing. No prior consideration of matter

(4) Despite subsection (3), a member holding a hearing may examine prior to the hearing any material required under any Act to be filed with the Board by the parties to the proceeding. Idem

(5) The Board shall fix a time and place for the hearing of the matter and shall at least ten days before the day fixed cause notice of the hearing to be served upon the person who has required the hearing. Notice

(6) Despite subsection (5), the Board may, on the consent of all parties, commence a hearing earlier than ten days after notice of the hearing is served under subsection (5). Idem

(7) The Board may, in such manner as it considers advisable, give notice of a hearing to such other persons as it considers appropriate. Idem

(8) A person upon whom notice of a hearing is served under subsection (5) and any other person added by the Board are parties to the proceeding. Parties

- Decision and reasons (9) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceeding.
- Powers (10) Following a hearing to consider a proposal to review an application for a licence to sell liquor, the Board may approve the application or may refuse to issue the licence.
- Idem (11) Following a hearing to consider any other proposal referred to in subsection 21 (1), (2) or (3), the Board may decline to carry out the proposal or may carry out the proposal, in whole or in part, and with any changes that the Board considers appropriate, and the Board may approve an application to which the proposal relates.
- Conditions (12) Following a hearing, the Board may attach to a licence or permit any condition that the Board considers proper to give effect to the purposes of this Act.
- Stay (13) An order of the Board takes effect immediately unless otherwise provided in the order but, if an appeal is made to the Divisional Court, the Court may grant a stay until the disposition of the appeal.
- Oaths (14) Every member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings.
- Expiry of term (15) A member of the Board sitting for a hearing whose term of office expires before the hearing is completed remains a member of the Board for the purpose of completing the hearing in the same manner as if his or her term of office had not expired.
- Reviewing decision or order **24.—**(1) Upon the request of a person to whom a decision or order of the Board relates, the Board may review the decision or order and, if the board considers it appropriate, may vary or rescind the decision or order.
- Consent (2) If a decision or order being reviewed under this section was made following a hearing, the Board may vary or rescind it only upon the consent of all parties to the hearing.
- Public interest (3) A request may not be made to review a decision or order refusing the issuance of a licence to sell liquor or revoking, suspending or refusing to renew such a licence, if the decision or order is based on the ground under clause 6 (2) (h).

25.—(1) A party to a proceeding before the Board under section 23 may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) An appeal under this section may be made on a question of law only. Question of law only

(3) The Board is a party to an appeal under this section. Board a party

(4) The Minister of Consumer and Commercial Relations is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Right to be heard

26.—(1) A notice, order or other document that is required or permitted under this Act to be given or delivered to or served on a person is sufficiently given, delivered or served if it is, Service

(a) delivered personally;

(b) sent by first class mail addressed to the person at the person's last known address; or

(c) served in a prescribed manner.

(2) A notice, order or other document sent by first class mail in accordance with clause (1) (b) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that it was not received on or before that date because of absence, accident, illness or other cause beyond the person's control. Idem

RESPONSIBLE USE

27. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell liquor. Unlawful purchase

28. No manufacturer or employee, agent or licensed representative of a manufacturer shall give any liquor to any person, except as permitted by the regulations. Unlawful gift

29. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person who is or appears to be intoxicated. Sale to intoxicated person

30.—(1) No person shall knowingly sell or supply liquor to a person under nineteen years of age. Sale to person under nineteen

- Idem (2) No person shall sell or supply liquor to a person who appears to be under nineteen years of age.
- Permitting possession or consumption (3) No licensee or employee or agent of a licensee shall knowingly permit a person under nineteen years of age to have or consume liquor in the licensee's licensed premises.
- Idem (4) No licensee or employee or agent of a licensee shall permit a person who appears to be under nineteen years of age to have or consume liquor in the licensee's licensed premises.
- Exception to subss. (3) and (4) (5) Subsections (3) and (4) do not prohibit a licensee or employee or agent of a licensee from permitting a person eighteen years of age to be in possession of liquor during the course of the person's employment on the licensee's licensed premises.
- Vendor may rely on documentation (6) A person who sells or supplies liquor to another person or permits another person to have or consume liquor in licensed premises on the basis of documentation of a prescribed type is not in contravention of subsection (2) or (4) if there is no apparent reason to doubt the authenticity of the documentation or that it was issued to the person producing it.
- Court may determine apparent age (7) In a prosecution for a contravention of subsection (2) or (4), the court may determine, from the appearance of the person and from other relevant circumstances, whether a person to whom liquor was served or supplied or a person who was permitted to have or consume liquor appears to be under nineteen years of age.
- Possession or consumption (8) No person under nineteen years of age shall have, consume, attempt to purchase, purchase or otherwise obtain liquor.
- Exception to subs. (8) (9) Subsection (8) does not prohibit a person eighteen years of age from being in possession of liquor during the course of the person's employment on premises in which the sale of liquor is authorized.
- Entering premises (10) No person under nineteen years of age shall enter or remain on premises in which the sale of liquor is authorized if the person knows that a condition of the licence or permit for the premises prohibits the entry of persons under nineteen years of age.
- Exception to subs. (10) (11) Subsection (10) does not apply to a person eighteen years of age who is employed on premises in which the sale of

liquor is authorized while the person is on the premises during the course of his or her employment.

(12) No person shall present as evidence of his or her age any documentation other than documentation that was lawfully issued to him or her. Improper documentation

(13) This section does not apply, Supply by parent

- (a) to the supplying of liquor to a person under nineteen years of age in a residence as defined in section 31 or in a private place as defined in the regulations by a parent of the person or a person having lawful custody of the person; or
- (b) to the consumption of liquor by a person who is supplied liquor in a manner described in clause (a), if the liquor is consumed at the place where it is supplied.

31.—(1) In this section, “residence” means a place that is actually occupied and used as a dwelling, whether or not in common with other persons, including all premises used in conjunction with the place to which the general public is not invited or permitted access, and, if the place occupied and used as a dwelling is a tent, includes the land immediately adjacent to and used in conjunction with the tent. Unlawful possession or consumption

(2) No person shall have or consume liquor in any place other than, Unlawful possession or consumption

- (a) a residence;
- (b) premises in respect of which a licence or permit is issued; or
- (c) a private place as defined in the regulations.

(3) Subsection (2) does not apply to the possession of liquor that is in a closed container. Exception

(4) No person shall be in an intoxicated condition, Intoxication

- (a) in a place to which the general public is invited or permitted access; or
- (b) in any part of a residence that is used in common by persons occupying more than one dwelling in the residence.

Arrest
without
warrant

(5) A police officer may arrest without warrant any person whom he or she finds contravening subsection (4) if, in the opinion of the police officer, to do so is necessary for the safety of any person.

Conveying
liquor in
vehicle
R.S.O. 1980,
c. 198

32.—(1) No person shall drive or have the care or control of a motor vehicle as defined in the *Highway Traffic Act* or a motorized snow vehicle, whether it is in motion or not, while there is contained in the vehicle any liquor, except under the authority of a licence or permit.

Exception

(2) Subsection (1) does not apply if the liquor in the vehicle,

- (a) is in a container that is unopened and the seal unbroken; or
- (b) is packed in baggage that is fastened closed or is not otherwise readily available to any person in the vehicle.

Conveying
liquor in
boat

(3) No person shall operate or have the care or control of a boat that is underway while there is contained in the boat any liquor, except under the authority of a licence or permit.

Exception

(4) Subsection (3) does not apply if the liquor in the boat,

- (a) is in a container that is unopened and the seal unbroken; or
- (b) is stored in a closed compartment.

Search of
vehicle or
boat

(5) A police officer who has reasonable grounds to believe that liquor is being unlawfully kept in a vehicle or boat may at any time, without a warrant, enter and search the vehicle or boat and search any person found in it.

Definition

(6) In this section, “boat” includes any ship or boat or any other description of vessel used or designed to be used in the navigation of water.

Unlawful
consumption
or supply of
alcohol

33. No person shall,

- (a) drink alcohol in a form that is not a liquor; or
- (b) supply alcohol in a form that is not a liquor to another person, if the person supplying the alcohol knows or ought to know that the other person intends it to be used as a drink.

34.—(1) The holder of a licence or permit issued in respect of premises shall ensure that a person does not remain on the premises if the holder has reasonable grounds to believe that the person,

Removing
person from
premises

- (a) is unlawfully on the premises;
- (b) is on the premises for an unlawful purpose; or
- (c) is contravening the law on the premises.

(2) The holder of a licence or permit may request a person referred to in subsection (1) to leave the premises immediately and if the request is not forthwith complied with may remove the person or cause the person to be removed by the use of no more force than is necessary.

Idem

(3) If there are reasonable grounds to believe that a disturbance or breach of the peace sufficient to constitute a threat to the public safety is being caused on premises for which a licence or permit is issued, a police officer may require that all persons vacate the premises.

Order to
vacate
premises

(4) The holder of the licence or permit for premises that are required to be vacated under subsection (3) shall take all reasonable steps to ensure that the premises are vacated.

Idem

(5) A licensee or employee of a licensee who has reason to believe that the presence of a person on the licensee's licensed premises is undesirable may,

Right to
refuse entry

- (a) request the person to leave; or
 - (b) forbid the person to enter the licensed premises.
- (6) No person shall,
- (a) remain on licensed premises after he or she is requested to leave by the licensee or an employee of the licensee; or
 - (b) re-enter the licensed premises on the same day he or she is requested to leave.

Not to
remain after
request to
leave

35.—(1) The council of a municipality may by by-law designate a recreational area within the municipality that is owned or controlled by the municipality as a place where the possession of liquor is prohibited.

By-law
designating
recreational
area

- Non-application of subs. (1) (2) A designation under subsection (1) does not prevent the Board from issuing any licence or permit under this Act.
- Unlawful possession (3) No person shall have liquor in a place designated under subsection (1).
- Exception to subs. (3) (4) Subsection (3) does not apply to a person in possession of liquor under the authority of a licence or permit or in possession of liquor purchased on a premises in respect of which a licence or permit is issued.
- Definition (5) In this section, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford.
- Taking to hospital in lieu of charge **36.**—(1) A police officer who finds a person apparently in contravention of subsection 31 (4) may take the person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a hospital designated by the regulations.
- Protection from liability (2) No action or other proceeding for damages shall be instituted against any physician or any hospital or officer or employee of a hospital on the grounds only that the person examines or treats without consent a person who is brought to the hospital under subsection (1).
- Detention in institution **37.**—(1) If it appears that a person in contravention of subsection 31 (4) may benefit therefrom, the court making the conviction may order the person to be detained for treatment for a period of ninety days or such lesser period as the court thinks advisable in an institution designated by the regulations.
- Idem (2) If, at any time during a person's period of detention ordered under subsection (1), the superintendent of the institution is of the opinion that further detention in the institution will not benefit the person, the superintendent may release the person.
- Advertising **38.**—(1) No person shall advertise liquor except in accordance with the regulations.
- Order of cessation (2) If two members of the Board are of the opinion that an advertisement contravenes this Act or the regulations, the Board may order the cessation of the use of the advertisement.

(3) The Board shall serve notice of an order under subsection (2), together with reasons therefor, on the person to whom the order is directed.

Notice of order

(4) A notice of an order shall inform the person to whom the order is directed that the person is entitled to a hearing by the Board if the person mails or delivers to the Board, within fifteen days after the notice is served on the person, notice in writing requiring a hearing by the Board, and the person may so require such a hearing.

Notice requiring hearing

(5) Unless otherwise provided in the order, an order under subsection (2) takes effect immediately.

Commencement of order

(6) If a hearing is required, an order under subsection (2) expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the time of expiration until the hearing is concluded.

Expiry of order

(7) If the Board is required to hold a hearing under subsection (4), the provisions of section 23 apply with necessary modifications to the hearing.

Application of s. 23

(8) Following a hearing to consider an order under subsection (2), the Board may confirm, vary or rescind the order.

Powers

39. The following rules apply if a person or an agent or employee of a person sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate the person or increase the person's intoxication so that he or she would be in danger of causing injury to himself or herself or injury or damage to another person or the property of another person:

Civil liability

1. If the person to or for whom the liquor is sold commits suicide or meets death by accident while so intoxicated, an action under Part V of the *Family Law Act, 1986* lies against the person who or whose employee or agent sold the liquor.
2. If the person to or for whom the liquor is sold causes injury or damage to another person or the property of another person while so intoxicated, the other person is entitled to recover an amount as compensation for the injury or damage from the person who or whose employee or agent sold the liquor.

1986, c. 4

40.—(1) This Act does not prevent,

Exception for drugs and medicines

- R.S.O. 1980,
c. 196
- (a) the sale of a drug dispensed as a medicine by a person authorized to do so under the *Health Disciplines Act*;
 - (b) the sale of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of the *Health Disciplines Act* for a person under health care provided by the hospital or institution;
- R.S.C. 1985,
c. F-27
- (c) the sale of a medicine registered under the *Food and Drugs Act* (Canada), except a sale that contravenes clause 33 (b); or
 - (d) the sale of a drug to a person authorized under the *Health Disciplines Act* to dispense, prescribe or administer drugs.

Idem

(2) This Act does not prevent the purchase of a drug or medicine pursuant to a sale described in subsection (1).

Exception for
research and
education

41. This Act does not prevent the possession, service or consumption of liquor for research or educational purposes as approved by the Board in accordance with the regulations.

Intoxicating
liquor
R.S.C. 1985,
c. I-3

42. Liquor shall be deemed to be an intoxicating liquor for purposes of the *Importation of Intoxicating Liquors Act* (Canada).

COMPLIANCE

Persons
designated by
chair

43.—(1) The chair of the Board may designate persons employed by the Board as persons who may carry out inspections for the purpose of determining whether there is compliance with this Act and the regulations.

Certificate of
designation

(2) A person designated under subsection (1) who is exercising a power under this Act shall, on request, produce his or her certificate of designation.

Inspections

44.—(1) For the purpose of ensuring compliance with this Act and the regulations, a person designated under subsection 43 (1) may,

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;

- (c) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the inspection;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee or permit holder and into assets owned, held in trust, acquired or disposed of by a licensee or permit holder that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary; and
- (f) remove materials or substances for examination or test purposes subject to the licensee, permit holder or other occupant of the premises being notified thereof.

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier. Entry to dwellings

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant, Warrant

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to search for and seize any document or thing relevant to the inspection; or
- (c) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that, Requirements for warrant to issue

- (a) in the case of a warrant to be issued under clause (3) (a), a person designated under subsection 43 (1) has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there are reasonable grounds to believe that such a person may be prevented from doing any of those things;
- (b) in the case of a warrant to be issued under clause (3) (b), it is necessary to search for and seize a document or thing that there are reasonable grounds to believe will afford evidence relevant to a contravention of this Act or the regulations; or

- (c) in the case of a warrant to be issued under clause (3) (c), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there are reasonable grounds to believe is relevant to an inspection under this Act.

Execution of
warrant

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Expiry

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Notice not
required

(7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.

Renewal of
warrant

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Experts

(9) A person carrying out an inspection under this Act is entitled to call upon such experts as are necessary to assist the person in carrying out the inspection.

Assistance

(10) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Copies

(11) A person carrying out an inspection under this Act who takes material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Admissibility
of copies

(12) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction

45.—(1) No person shall obstruct a person carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Facilitating
inspection

(2) It is a condition of each licence and permit issued under this Act that the licensee or permit holder facilitate an inspection relevant to the licence or permit.

46. Liquor kept for sale or offered for sale in contravention of subsection 5 (1) and liquor purchased in contravention of section 27 is forfeited to the Crown. Forfeiture of liquor

47.—(1) If liquor is found by a police officer under circumstances where the liquor constitutes evidence necessary to prove a contravention of this Act, or if an offence appears to have been committed under this Act and a police officer, on reasonable grounds, in view of the offence apparently committed and the presence of liquor, believes that a further offence is likely to be committed, the police officer may seize and take away the liquor and the packages in which it is kept. Seizure of liquor

(2) A provincial offences court may, upon the application of any person made within thirty days of a seizure under subsection (1), order that the things seized be restored forthwith to the applicant if the court is satisfied that, Order of restoration

- (a) the applicant is entitled to possession of the things seized; and
- (b) the things seized are not required as evidence in any proceeding.

(3) If the court is satisfied that an applicant under subsection (2) is entitled to possession of the things seized but is not satisfied as to the matter mentioned in clause (2) (b), it shall order that the things seized be restored to the applicant, Idem

- (a) upon the expiration of three months from the date of the seizure, if no proceeding in respect of an offence has been commenced; or
- (b) upon the final conclusion of any such proceeding.

(4) If no application has been made for the return of a thing seized under subsection (1) or an application has been made but upon the hearing of the application no order of restoration has been made, the thing seized is forfeited to the Crown. Forfeiture

(5) If a person is convicted of an offence under this Act, any thing seized under subsection (1) by means of which the offence was committed is forfeited to the Crown. Idem

48. If a police officer finds a person apparently in contravention of this Act and the person refuses to give his or her name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant. Arrest without warrant

Confiden-
tiality

49.—(1) Every person engaged in the administration of this Act shall preserve confidentiality in respect of all matters that come to his or her knowledge in the course of his or her duties and shall not communicate any such matter to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act;
- (b) to his or her counsel; or
- (c) with the consent of the person to whom the matter relates.

Testimony in
civil
proceeding

(2) No person engaged in the administration of this Act shall be required to give testimony in any civil proceeding with regard to information obtained by the person in the course of the person's duties except in a proceeding under this Act.

Chair's
certificate

50. A statement as to any of the following matters purporting to be certified by the chair of the Board is admissible in evidence in any proceeding without proof of the office or signature of the chair and is proof, in the absence of evidence to the contrary, of the information set out in the statement:

- 1. The issuance or non-issuance of a licence or permit.
- 2. The filing or non-filing of any document or material required or permitted to be filed with the Board.
- 3. Any matter in addition to those referred to in paragraphs 1 and 2 that pertains to licences or permits or filing or non-filing.
- 4. The time when the facts upon which a proceeding is based first came to the knowledge of the Board.

Analyst's
certificate or
report

51. A certificate or report purporting to be signed by a federal or provincial analyst as to the composition of any liquor or any other substance is admissible in any proceeding under this Act as evidence of the information set out in the certificate or report and of the authority of the person giving it or making it, without proof of the appointment or signature of the person.

LOCAL OPTION

52.—(1) Subject to section 53 and the regulations, no licence to sell liquor may be issued for premises in a municipality or part thereof in which the sale of liquor under a licence was prohibited under the law as it existed immediately before the date this Act comes into force. Prohibited areas

(2) Subject to section 53 and the regulations, no government store may be established in a municipality or part thereof in which the sale of liquor in a government store was prohibited under the law as it existed immediately before the date this Act comes into force. Idem

(3) Despite subsection (2), government stores may be established in a municipality or part thereof in which it is lawful to issue licences to sell liquor. Exception

(4) Despite subsections (1) and (2), Idem

(a) a government store established before the 1st day of January, 1990 shall be deemed to have been lawfully established; and

(b) a licence to sell liquor issued before the 1st day of January, 1990 shall be deemed to have been lawfully issued.

(5) Subject to section 53 and the regulations, in a municipality or part thereof in which, under the law as it existed immediately before the date this Act comes into force, the sale of beer and wine only was permitted in licensed premises, a licence to sell liquor shall be deemed to contain a condition that beer and wine only may be sold in the licensed premises. Sale of beer and wine only

53.—(1) The council of a municipality may submit to a vote one or more of the prescribed questions respecting the authorization of the sale of liquor in the municipality. Local option to authorize sale

(2) The council of a municipality shall submit to a vote such prescribed questions respecting the authorization of the sale of liquor in the municipality as are requested by a petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election. Idem

(3) Government stores may be established in a municipality in which 60 per cent of the electors voting on a question vote in favour of the sale of liquor in government stores. Establishing stores

Issuing
licences

(4) Licences to sell liquor may be issued for premises in a municipality in which 60 per cent of the electors voting on a question vote in favour of the sale of liquor in licensed premises.

Local option
to cease sale

54.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may submit to a vote one or more of the prescribed questions respecting the prohibition of the sale of liquor in the municipality.

Idem

(2) The council of a municipality shall submit to a vote such prescribed questions respecting the prohibition of the sale of liquor in the municipality as are requested by a petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election.

Closing
stores

(3) If 60 per cent of the electors voting on a question vote in favour of prohibiting the sale of liquor in government stores, all government stores established in the municipality shall be closed as of the 31st day of March in the following year.

Revoking
licences

(4) If 60 per cent of the electors voting on a question vote in favour of prohibiting the sale of liquor in licensed premises, all licences to sell liquor issued for premises in the municipality shall be deemed to be revoked as of the 31st day of March in the following year.

No right to
a hearing

(5) Sections 15 and 21 do not apply where a licence is deemed to be revoked under subsection (4).

Day of
polling

R.S.O. 1980,
c. 308

55.—(1) Subject to subsection (2), the day fixed for taking a vote on any question under section 53 or 54 shall be the polling day of the next regular election under the *Municipal Elections Act*, unless the council of the municipality, with the approval of the Board, fixes some other day and so notifies the clerk of the municipality.

Idem

(2) A poll shall not be held on any question until after sixty days from,

- (a) the filing of the petition requiring the question to be submitted; or
- (b) the date the council approves the submission of the question, if the council submits the question without a petition.

56. The persons eligible to vote on a question under section 53 or 54 are the persons who would be eligible to vote at an election held under the *Municipal Elections Act* on the day fixed for taking the vote on the question.

Eligible voters

R.S.O. 1980, c. 308

57. The provisions of the *Municipal Elections Act* apply to the taking of a vote under this Act.

Application of

R.S.O. 1980, c. 308

58.—(1) The returning officer shall make a return to the Board showing the number of votes polled for the affirmative and negative on each question submitted.

Return to Board

(2) Upon receiving the return, the Board shall give notice of the return in *The Ontario Gazette*, showing the total number of votes polled in the municipality for the affirmative and negative on each question.

Idem

59. If a question under section 53 or 54 is submitted for a vote in a municipality or part thereof, no further vote may be held in the municipality or part on any question under section 53 or 54 until after thirty-five months from the date of the vote on the question.

Resubmitting questions

60.—(1) The status under this Act of a municipality that is amalgamated with another municipality that has a different status,

Amalgamation does not affect status

(a) is not affected by the amalgamation; and

(b) may be changed only by a vote under this Act in the municipality amalgamated.

(2) The status under this Act of a municipality or part of a municipality that is annexed to another municipality that has a different status,

Annexation does not affect status

(a) is not affected by the annexation; and

(b) may be changed only by a vote under this Act in the municipality or part annexed.

(3) In a municipality amalgamated or municipality or part annexed to which subsection (1) or (2) applies, the persons qualified to sign a petition under section 53 or 54 are the persons whose names appear on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be.

Who may sign petition

Who may
vote

R.S.O. 1980,
c. 308

(4) In a municipality amalgamated or municipality or part annexed to which subsection (1) or (2) applies, the persons eligible to vote on a question under section 53 or 54 are the persons who would be eligible to vote at an election held under the *Municipal Elections Act* in the municipality amalgamated or municipality or part annexed, as the case may be.

OFFENCES

Offences

61.—(1) A person is guilty of an offence if the person,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act;
- (b) knowingly fails to comply with an order under subsection 38 (2); or
- (c) contravenes any provision of this Act or the regulations.

Derivative

(2) A director or officer of a corporation who caused, authorized, permitted or participated in an offence under this Act by the corporation is guilty of an offence.

Penalties

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year or both.

Idem

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$100,000.

Additional
penalty

(5) In addition to any other penalty or action under this Act, the licence of a licensee who contravenes subsection 30 (1) or (2) shall be suspended for a period of not less than seven days.

Minimum
fine

(6) If a licensee contravenes subsection 30 (1), (2), (3) or (4), the fine imposed under this section shall be not less than \$500.

Idem

(7) If a person who is not a licensee contravenes subsection 30 (1), (2), (3) or (4), the fine imposed under this section shall be not less than \$100.

Limitation

(8) Subject to subsection (9), no proceeding under this section shall be commenced more than two years after the offence was committed.

(9) No proceeding under clause (1) (a) and no proceeding under subsection (2) that relates to a matter referred to in clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board. Idem

REGULATIONS

62.—(1) The Lieutenant Governor in Council may make Regulations
regulations,

1. prescribing anything that is referred to in this Act as being prescribed;
2. governing the issuance, renewal, transfer and expiry of licences;
3. governing the issuance and expiry of permits;
4. prescribing conditions that attach to licences and permits;
5. prescribing the special occasions for which permits may be issued;
6. prescribing fees for the purposes of this Act and the regulations, including fees payable in respect of late applications and late payment of fees;
7. requiring the payment of fees;
8. exempting any person, product or premises from any provision of this Act or the regulations;
9. requiring licensees and permit holders to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;
10. controlling the advertising of liquor or its availability for sale and requiring that advertisements be subject to the approval of the Board;
11. prescribing standards for licensed premises and premises used by permit holders for the sale and service of liquor;

12. prescribing or prohibiting methods and practices in connection with the serving of liquor;
13. prohibiting licensees and permit holders from permitting any person to engage in prescribed activities on their premises;
14. governing the sale and service of liquor by a holder of a licence to sell liquor in a place other than licensed premises;
15. prescribing classes of premises on which a person under the age of nineteen years may not enter;
16. prescribing rules for proceedings before the Board;
17. governing the issuance of documentation for proof of age;
18. prescribing hours of sale of liquor;
19. authorizing the Board to extend the hours of sale of liquor during events of municipal, provincial, national or international significance;
20. prohibiting manufacturers and employees, agents and licensed representatives of manufacturers from offering or giving inducements or engaging in prescribed practices with respect to the sale or promotion of liquor;
21. prescribing the circumstances in which a manufacturer or employee, agent or licensed representative of a manufacturer may give liquor as a gift;
22. prescribing the circumstances in which a manufacturer may obtain a licence to sell liquor despite subsection 6 (4);
23. regulating and controlling the possession and delivery of liquor sold under a licence or permit;
24. authorizing the Board to approve training courses for the service or delivery of liquor;
25. authorizing the Board to approve a temporary physical extension of licensed premises;

26. authorizing the Board to exempt any person from the requirement to provide information in respect of an application for a licence or permit;
27. governing the approval by the Board of the possession, service or consumption of liquor for research or educational purposes;
28. prescribing the circumstances in which, following a prescribed change of ownership in respect of a licence, liquor may be kept for sale, offered for sale or sold or delivered for a fee under the authority of the licence despite subsection 16 (1) or (2);
29. designating classes of persons for the purpose of section 19;
30. defining "private place" for purposes of sections 30 and 31;
31. designating hospitals for purposes of section 36;
32. designating institutions for purposes of section 37, governing the transfer and admission of persons to and detention of persons in such institutions and providing for the management of such institutions;
33. prescribing licences that may be issued in a municipality despite section 52;
34. prohibiting or regulating and controlling the possession of liquor in provincial parks, in a park managed or controlled by The Niagara Parks Commission, The St. Lawrence Parks Commission, The St. Clair Parkway Commission or on lands owned or controlled by a conservation authority established or continued under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

(2) A regulation may be general or particular in its application.

Scope of
regulations

(3) Any provision of a regulation may be subject to such conditions, qualifications or requirements as are specified in the regulation.

Conditions,
qualifications,
requirements

MISCELLANEOUS

Transition,
licence

63.—(1) A licence under a predecessor to this Act continues in force until it expires or is earlier revoked or suspended.

Idem, permit

(2) A permit under a predecessor to this Act continues in force until it expires or is earlier revoked.

Idem,
registration

(3) A registration as an agent or representative of a manufacturer under a predecessor to this Act continues in force until it expires or is earlier revoked or suspended.

Appeal to
C.R.A.T.

(4) A decision of the Board under section 12 of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, that is issued before the date this Act comes into force may be appealed to The Commercial Registration Appeal Tribunal in accordance with section 14 of that Act.

Repeals

64. The following are repealed:

1. The *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980.
2. The *Liquor Licence Amendment Act, 1981*, being chapter 1.
3. Item 7 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.
4. The *Liquor Licence Amendment Act, 1984*, being chapter 4.
5. The *Liquor Licence Amendment Act, 1986*, being chapter 60.

1981, c. 53

65. Section 19 of the *Human Rights Code, 1981*, as amended by the Statutes of Ontario, 1986, chapter 64, section 18, is further amended by adding the following subsection:

Minimum
drinking age

(2) The right under section 1 to equal treatment with respect to services, goods and facilities without discrimination because of age is not infringed by the provisions of the *Liquor Licence Act, 1990* and the regulations under it relating to providing for and enforcing a minimum drinking age of nineteen years.

1990, c. 15

66. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

67. The short title of this Act is the *Liquor Licence Act*, Short title
1990.

Bill 175

(Chapter 15
Statutes of Ontario, 1990)

An Act to revise the Liquor Licence Act and to amend the law relating to Liquor

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations



<i>1st Reading</i>	June 4th, 1990
<i>2nd Reading</i>	June 18th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 175

1990

**An Act to revise the Liquor Licence Act and
to amend the law relating to Liquor**

CONTENTS

Section

1. Definitions

BOARD

2. Liquor Licence Board of
Ontario

3. Member or employee designated
by chair

4. Bargaining unit and agent

LICENCES AND PERMITS

5. Licence or permit required

6. Licence to sell

7. Public notice of application

8. Member to consider application

9. Public meeting

10. Licence to deliver

11. Licence to represent
manufacturer

12. Issuance of licence

13. Continuance pending renewal

14. Imposition of new conditions on
licence

15. Revocation, suspension or
refusal to renew

16. Change of ownership of business

17. Transfer of licence

18. Temporary transfer of licence

19. Special occasion permit

20. Disqualification of premises

21. Notice of proposal

22. Manufacturer's licence to sell to
L.C.B.O.

HEARINGS

23. Hearing

24. Reviewing decision or order

25. Appeal to Divisional Court

26. Service

RESPONSIBLE USE

27. Unlawful purchase

28. Unlawful gift

29. Sale to intoxicated person

Section

30. Sale to person under nineteen

31. Unlawful possession or
consumption

32. Conveying liquor in vehicle or
boat

33. Unlawful consumption or supply
of alcohol

34. Removing person from premises

35. By-law designating recreational
area

36. Taking to hospital in lieu of
charge

37. Detention in institution

38. Advertising

39. Civil liability

40. Exception for drugs and
medicines

41. Exception for research and
education

42. Intoxicating liquor

COMPLIANCE

43. Persons designated by chair

44. Inspections

45. Obstruction

46. Forfeiture of liquor

47. Seizure of liquor

48. Arrest without warrant

49. Confidentiality

50. Chair's certificate

51. Analyst's certificate or report

LOCAL OPTION

52. Prohibited areas

53. Local option to authorize sale

54. Local option to cease sale

55. Day of polling

56. Eligible voters

57. Application of *Municipal
Elections Act*

58. Return to Board

59. Resubmitting questions

Section	Section
60. Amalgamation does not affect status	MISCELLANEOUS
OFFENCES	63. Transition
61. Offences	64. Repeals
REGULATIONS	65. <i>Human Rights Code, 1981</i> amended
62. Regulations	66. Commencement
	67. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“alcohol” means a product of fermentation or distillation of grains, fruits or other agricultural products, and includes synthetic ethyl alcohol;

“beer” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;

“Board” means the Liquor Licence Board of Ontario;

R.S.O. 1980,
c. 243 “government store” means a government store established under the *Liquor Control Act*;

“licence” means a licence issued under this Act;

“liquor” means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter;

“manufacturer” means a person who produces liquor for sale;

“municipality” means a city, town, village or township;

“Ontario wine” means,

- (a) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof and includes Ontario wine to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario,

- (b) wine produced by the alcoholic fermentation of Ontario honey, with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine, or
- (c) wine produced from a combination of,
 - (i) apples grown in Ontario or the concentrated juice thereof to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario, and
 - (ii) the concentrated juice of apples grown outside of Ontario,

in such proportion as is prescribed;

“permit” means a permit issued under this Act;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

“sell” means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and
 “sale” has a corresponding meaning;

“spirits” means any beverage containing alcohol obtained by distillation;

“wine” means any beverage containing alcohol in excess of the prescribed amount obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

BOARD

2.—(1) The Liquor Licence Board is continued as the Liquor Licence Board of Ontario.

Liquor
Licence
Board of
Ontario

(2) The Board shall consist of not more than nine members appointed by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council may designate one member of the Board as chair and one or more members as vice-chairs.

Chair and
vice-chair

(4) The chair is the chief executive officer of the Board.

Idem

- Idem (5) If the chair is absent or is unable to act, a vice-chair designated by the chair shall have all the powers and duties of the chair.
- Term (6) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.
- Remuneration (7) The members of the Board shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council.
- Non-application of R.S.O. 1980, c. 95 (8) The Board is a corporation to which the *Corporations Act* does not apply.
- Duties (9) The Board shall perform such duties as are assigned to it under this and any other Act and shall administer and enforce this Act and the regulations.
- Staff (10) The Board may employ such persons as are considered necessary and may, subject to the approval of the Lieutenant Governor in Council, establish job categories, salary ranges and terms and conditions of employment.
- Finances (11) The revenues of the Board shall be paid to the Treasurer of Ontario and the money required for the expenditures of the Board shall be paid out of the money appropriated therefor by the Legislature.
- Member designated by chair **3.**—(1) A function referred to in this Act or the regulations as being performed by a member of the Board may be performed by one or more members designated by the chair of the Board.
- Employee designated by chair (2) A function referred to in this Act or the regulations as being performed by an employee of the Board may be performed by one or more employees designated by the chair of the Board.
- Bargaining unit and agent under R.S.O. 1980, c. 108 **4.** For the purposes of the *Crown Employees Collective Bargaining Act*, and subject to any further designation under that Act,
- (a) the persons employed in the work of the Board are designated as a unit of employees that is an appropriate bargaining unit for collective bargaining purposes; and

- (b) the Ontario Liquor Boards Employees' Union is designated as the employee organization that has representation rights in relation to the bargaining unit.

LICENCES AND PERMITS

5.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit to sell liquor or under the authority of a manufacturer's licence.

Licence or
permit
required

(2) No person shall canvass for, receive or solicit orders for the sale of liquor unless the person is the holder of a licence or permit to sell liquor or unless the person is the holder of a licence to represent a manufacturer.

Soliciting
orders

(3) No person shall deliver liquor for a fee except under the authority of a licence to deliver liquor.

Delivery for
fee

(4) Subsections (1), (2) and (3) do not apply to the sale or delivery of liquor by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*.

Exception

R.S.O. 1980,
c. 243

6.—(1) A person may apply to the Board for a licence to sell liquor.

Licence to
sell

(2) Subject to subsection (4), an applicant is entitled to be issued a licence to sell liquor except if,

Requirements

- (a) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's business;
- (b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) the applicant is a corporation and a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (d) the past or present conduct of the persons referred to in subsection (3) affords reasonable grounds for belief that the applicant will not carry on business in accordance with the law and with integrity and honesty;

- (e) the applicant or an employee or agent of the applicant makes a false statement or provides false information in an application under this Act;
- (f) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;
- (g) the premises, accommodation, equipment and facilities in respect of which the licence is to be issued are not, or will not be, if the applicant is licensed, in compliance with this Act and the regulations; or
- (h) the licence is not in the public interest having regard to the needs and wishes of the residents of the municipality in which the premises are located.

Idem

(3) Clause (2) (d) applies to the following persons:

1. The applicant.
2. An officer or director of the applicant.
3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.
4. A person having a beneficial interest in the business of the applicant.
5. A person having responsibility for the management or operation of the business of the applicant.

Prohibition

(4) Except as permitted by the regulations, a licence to sell liquor shall not be issued,

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;
- (b) to a manufacturer or to a person who is so associated or connected therewith or financially interested therein as to be likely to promote the sale of liquor of that manufacturer;
- (c) to a person who by reason of an agreement, arrangement or understanding with any person is likely to promote the sale of liquor of any manufacturer;

- (d) to a person for premises in which a manufacturer has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any personal property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee; or
- (e) to a person in respect of a business in which a manufacturer has an interest by way of a franchise agreement.

(5) In this section, “equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing. Definition

7.—(1) Subject to subsection (2), the Board shall give notice of an application for a licence to sell liquor to the residents of the municipality in which the premises are located by giving notice, Public notice of application

- (a) in the prescribed manner in a newspaper having general circulation in the municipality; and
- (b) in any other manner that is prescribed.

(2) The Board is not required to give notice under subsection (1) if the applicant for the licence is disqualified under clauses 6 (2) (a) to (g) or subsection 6 (4). Exception

(3) In a notice given under subsection (1), the Board shall request from the residents of the municipality written submissions as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents. Submissions

(4) Written submissions concerning an application shall be made in the prescribed manner and within the prescribed time. Idem

8.—(1) A member of the Board shall consider an application for a licence to sell liquor. Member to consider application

(2) If, after giving notice of an application under subsection 7 (1), the Board receives no written objections to the application from the residents of the municipality within the time for making submissions, the member may, No objections

- (a) approve the application if the applicant is not disentitled under subsection 6 (2) or (4); or
- (b) direct that a proposal to review the application be issued.

Conditions
on consent

- (3) A member who approves an application under clause (2) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Objections

(4) If, after giving notice of an application under subsection 7 (1), the Board receives one or more written objections to the application from the residents of the municipality within the time for making submissions, the member may,

- (a) call a public meeting; or
- (b) direct that a proposal to review the application be issued.

No notice

(5) If no notice of an application is given under subsection 7 (1) because the applicant is disentitled under clauses 6 (2) (a) to (g) or subsection 6 (4), the member shall direct that a proposal to review the application be issued.

Public
meeting

9.—(1) If a public meeting is called under clause 8 (4) (a), the Board shall give notice in the prescribed manner of a time and place for the meeting.

Member to
conduct
meeting

(2) A member of the Board shall conduct the public meeting.

Represent-
ations by
residents

(3) The member shall receive representations from the residents of the municipality in which the premises are located as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents.

Idem

(4) The member shall consider the representations of the residents in determining whether to approve the application.

Member to
consider
application

(5) After the meeting has been held, the member shall consider the application and may,

- (a) approve the application if the applicant is not disentitled under subsection 6 (2) or (4); or
- (b) direct that a proposal to review the application be issued.

(6) A member who approves an application under clause (5) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Conditions
on consent

10.—(1) A person may apply to the Board for a licence to deliver liquor.

Licence to
deliver

(2) Subject to subsection (5), an applicant for a licence to deliver liquor is entitled to the issuance of the licence unless the applicant is disentitled for any ground under clauses 6 (2) (a) to (g).

Requirements

(3) An application for a licence shall be considered by a member of the Board and the member may,

Member to
consider
application

(a) approve the application if the applicant is not disentitled under subsection (2); or

(b) direct that a proposal be issued to refuse to issue the licence.

(4) A member who approves an application for a licence under clause (3) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Conditions
on consent

(5) A licence to deliver liquor shall not be issued,

Prohibition

(a) to a person who is under agreement with any person to sell or deliver the liquor of any manufacturer;

(b) to a manufacturer or to a person who is so associated or connected therewith or financially interested therein as to be likely to promote the sale or delivery of liquor of that manufacturer; or

(c) to a person who by reason of an agreement, arrangement or understanding with any person is likely to promote the sale or delivery of liquor of any manufacturer.

11.—(1) No person shall directly or indirectly act as or purport to be an agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer unless the person is the holder of a licence to represent that manufacturer.

Licence to
represent
manufacturer

(2) A person may apply to the Board for a licence to represent a manufacturer.

Applying for
licence

Requirements (3) An applicant for a licence to represent a manufacturer is entitled to the issuance of the licence unless the applicant is disentitled for any ground under clause 6 (2) (d), (e) or (f).

Member or employee to consider application (4) An application for a licence shall be considered by a member or employee of the Board and the member or employee may,

(a) approve the application if the applicant is not disentitled under subsection (3); or

(b) direct that a proposal be issued to refuse to issue the licence.

Conditions on consent (5) A member or employee who approves an application for a licence under clause (4) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Not transferable (6) A licence to represent a manufacturer is not transferable.

Issuance of licence **12.—**(1) The Board shall issue a licence to sell liquor, a licence to deliver liquor or a licence to represent a manufacturer to an applicant thereof whose application is approved by a member or employee of the Board or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.

Conditions of licence (2) A licence is subject to such conditions as may be consented to by the applicant or licensee, imposed by the Board or prescribed.

Limit on further applications (3) If the issuance of a licence to sell liquor is refused on the ground under clause 6 (2) (h), no further application may be made for a licence for the same premises within two years after the date of the refusal.

Exception (4) If a member of the Board is satisfied that there has been a significant change in the circumstances that pertained at the time the application was refused, the Board may permit a re-application within the two-year period referred to in subsection (3).

Continuance pending renewal **13.** If, within the time prescribed therefor or, if no time is prescribed, before expiry of a licence, the licensee has applied for renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,

(a) until the renewal is granted; or

- (b) if the licensee is served with notice of a proposal to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, if a hearing is required, until the order has become final.

14.—(1) A member or employee of the Board may at any time review a licence and may,

Imposition of
new
conditions on
licence

- (a) attach to the licence any further conditions consented to by the licensee; or
- (b) direct that a proposal be issued to attach to the licence such further conditions as the member or employee considers proper to give effect to the purposes of this Act.

(2) A member or employee of the Board may, on the application of a licensee, remove a condition of a licence, other than a prescribed condition, if there is a change in circumstances.

Removal of
conditions

(3) A member or employee of the Board who, upon considering an application for removal of a condition, decides not to remove the condition shall direct that a proposal be issued to refuse to remove the condition.

Idem

15.—(1) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to sell liquor or refuse to renew such a licence for any ground under subsection 6 (2) or (4) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Revocation,
suspension or
refusal to
renew licence
to sell liquor

(2) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to deliver liquor or refuse to renew such a licence for any ground under clauses 6 (2) (a) to (g) or subsection 10 (5) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem, licence
to deliver
liquor

(3) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a licence to represent a manufacturer or refuse to renew such a licence for any ground under clause 6 (2) (d), (e) or (f) that would disentitle the licensee to a licence if the licensee were an applicant or if the licensee has contravened this Act, the regulations or a condition of the licence.

Idem, licence
to represent
manufacturer

Idem,
manufac-
turer's
licence

(4) A member or employee of the Board may direct that a proposal be issued to revoke or suspend a manufacturer's licence or refuse to renew such a licence for any ground under clause 6 (2) (d), (e), (f) or (g) or if the licensee has contravened this Act, the regulations or a condition of the licence.

Interim
suspension of
licence

(5) If a proposal is issued to revoke or suspend a licence, the Board may by order suspend the licence prior to a hearing if two members of the Board consider it to be necessary in the public interest.

Idem

(6) An order to suspend a licence under subsection (5) takes effect immediately and, if a hearing is required, expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the time of expiration until the hearing is concluded.

Voluntary
cancellation

(7) The Board may cancel a licence upon the request in writing of the licensee and the surrender of the licence by the licensee.

Change of
ownership of
business

16.—(1) Except as permitted by the regulations, if there is a prescribed change of ownership of a business carried on under a licence, no person shall keep for sale, offer for sale or sell liquor or deliver liquor for a fee under the authority of the licence unless the licence is transferred by the Board in accordance with this Act and the regulations.

Change of
ownership of
corporate
licensee

(2) Except as permitted by the regulations, if there is a prescribed change of ownership of a licensee that is a corporation, the licensee shall not keep for sale, offer for sale or sell liquor or deliver liquor for a fee under the authority of the licensee's licence unless the licence is transferred by the Board in accordance with this Act and the regulations.

Transfer of
licence

17.—(1) A person may apply to the Board for the transfer of a licence to sell liquor or a licence to deliver liquor.

Require-
ments,
licence to sell
liquor

(2) An applicant for the transfer of a licence to sell liquor is entitled to the transfer except if the applicant would not be entitled to the issuance of a licence for any ground under clauses 6 (2) (a) to (g) or subsection 6 (4).

Idem, licence
to deliver
liquor

(3) An applicant for the transfer of a licence to deliver liquor is entitled to the transfer except if the applicant would not be entitled to the issuance of a licence for any ground under clauses 6 (2) (a) to (g) or subsection 10 (5).

(4) An application for a transfer of a licence shall be considered by a member of the Board and the member may,

Member to consider application

- (a) approve the application if the applicant is not disentitled under subsection (2) or (3); or
- (b) direct that a proposal be issued to refuse to transfer the licence.

(5) A member of the Board who approves an application under clause (4) (a) may specify any conditions consented to by the applicant that are to be attached to the licence.

Conditions on consent

(6) The Board shall transfer a licence to an applicant whose application is approved by a member of the Board or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.

Transfer

(7) A licence transferred under this section is subject to such conditions as may be consented to by the applicant, imposed by the Board or prescribed.

Conditions of licence

18.—(1) The Board, in accordance with the regulations, may transfer a licence to sell liquor for a period of not more than one year to permit the orderly disposition of the business carried on under the licence.

Temporary transfer of licence

(2) Subsection 17 (2) does not apply to a temporary transfer under this section.

Idem

19.—(1) A person may apply to the Board for a permit authorizing the holder thereof to sell or serve liquor on a prescribed special occasion.

Special occasion permit

(2) An applicant for a permit for a special occasion is entitled to be issued the permit except if,

Requirements

- (a) the applicant would not be entitled to the issuance of a licence to sell liquor for any ground under clauses 6 (2) (d) to (g) or subsection 6 (4); or
- (b) the premises for which the permit is applied are disqualified under section 20.

(3) In this section, “authorized person” means a person within a class of persons designated by the regulations.

Definition

(4) An application for a permit shall be considered by a member of the Board or an authorized person and the member or authorized person may,

Person to consider application

- (a) approve the application if the applicant is not disentitled under subsection (2); or
- (b) direct that a proposal be issued to refuse to issue the permit.

Conditions
on consent

(5) A member or authorized person who approves an application for a permit may specify any conditions consented to by the applicant that are to be attached to the permit.

Issuance of
permit

(6) The Board shall issue a permit to an applicant therefor whose application is approved by a member of the Board or an authorized person or by the Board, who complies with this Act and the regulations and who pays the prescribed fee.

Conditions of
permit

(7) A permit is subject to such conditions as may be consented to by the applicant or permit holder, imposed by the Board or prescribed.

Imposition of
new
conditions on
permit

(8) A member or employee of the Board may at any time review a permit and may,

- (a) attach to the permit any further conditions consented to by the permit holder; or
- (b) direct that a proposal be issued to attach to the permit such further conditions as the member or employee considers proper to give effect to the purposes of this Act.

Removal of
conditions

(9) A member or employee of the Board may, on the application of a permit holder, remove a condition of a permit, other than a prescribed condition, if there is a change in circumstances.

Idem

(10) A member or employee of the Board who, upon considering an application for removal of a condition, decides not to remove the condition shall direct that a proposal be issued to refuse to remove the condition.

Revocation
of permit

(11) A member or employee of the Board may direct that a proposal be issued to revoke a permit for any ground that would disentitle the holder to a permit if the holder were an applicant under subsection (2) or if the holder has contravened this Act, the regulations or a condition of the permit.

Immediate
revocation of
permit

(12) If a proposal is issued to revoke a permit, the Board may by order revoke the permit prior to a hearing if two members of the Board,

- (a) consider it to be necessary in the public interest;
- (b) are satisfied that false information has been furnished in an application for the permit;
- (c) are satisfied that the holder has contravened this Act, the regulations or a condition of the permit; or
- (d) determine that the premises for which the permit is issued are disqualified under section 20.

(13) An order to revoke a permit under subsection (12) takes effect immediately. Idem

20.—(1) A member or employee of the Board may direct that a proposal be issued to disqualify premises for purposes of issuing permits under section 19 on the grounds of a contravention of the law that has occurred at a previous event held on the premises. Disqualification of premises

(2) If a proposal is issued to disqualify premises, the Board may by order disqualify the premises prior to a hearing, if two members of the Board consider it to be necessary in the public interest. Interim disqualification of premises

(3) An order to disqualify premises under subsection (2) takes effect immediately and, if a hearing is required, expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the period of disqualification until the hearing is concluded. Idem

21.—(1) If a member or employee of the Board directs that a proposal be issued with respect to any of the following matters, the Board shall serve notice of the proposal together with written reasons therefor on the applicant or licensee: Notice of proposal

1. Review an application for a licence to sell liquor.
2. Refuse to issue a licence to deliver liquor or a licence to represent a manufacturer.
3. Refuse to renew a licence.
4. Refuse to transfer a licence, other than a manufacturer's licence.
5. Suspend or revoke a licence.
6. Attach a condition to a licence.

7. Refuse to remove a condition of a licence.

Idem

(2) If a member or employee of the Board or an authorized person under section 19 directs that a proposal be issued with respect to any of the following matters, the Board shall serve notice of the proposal together with written reasons therefor on the applicant or permit holder:

1. Refusing to issue a permit.
2. Revoking a permit.
3. Attaching a condition to a permit.
4. Refusing to remove a condition of a permit.

Idem

(3) If a member or employee of the Board directs that a proposal be issued to disqualify premises under section 20, the Board shall serve notice of the proposal together with written reasons therefor on the owner of the premises.

Notice
requiring
hearing

(4) A notice of a proposal shall inform the applicant, licensee, permit holder or owner that the person is entitled to a hearing by the Board if the person mails or delivers to the Board, within fifteen days after the notice is served on the person, notice in writing requiring a hearing by the Board, and the person may so require such a hearing.

No hearing

(5) If a person to whom a notice is sent under this section does not require a hearing by the Board, the Board may,

- (a) in the case of a notice of a proposal to review an application for a licence to sell liquor, refuse to issue the licence; or
- (b) in any case other than that referred to in clause (a), carry out the proposal stated in the notice.

Manufactur-
er's
licence to sell
to L.C.B.O.
R.S.O. 1980,
c. 243

22.—(1) A manufacturer of spirits, beer or Ontario wine may apply to the Board for a licence to sell the spirits, beer or Ontario wine to the Liquor Control Board of Ontario under the *Liquor Control Act*.

Issuance

(2) The Board may issue a manufacturer's licence to an applicant under this section.

Conditions

(3) A manufacturer's licence is subject to such conditions as may be imposed by the Board or prescribed.

(4) The Board, in accordance with the regulations, may transfer a manufacturer's licence. Transfer

(5) The Board's decision to issue or transfer or to refuse to issue or transfer a manufacturer's licence is final. Decision final

(6) The Board shall notify the Minister of Consumer and Commercial Relations of every licence issued or transferred under this section. Notice to Minister

HEARINGS

23.—(1) If the Board is required to hold a hearing under subsection 21 (4), two members of the Board shall constitute a quorum of the Board for purposes of the hearing and decision. Hearing

(2) Despite subsection (1), the chair of the Board may direct that a particular matter be heard and decided by one member of the Board, except for a hearing to consider a proposal that is based on the ground under clause 6 (2) (h). Idem

(3) A member holding a hearing must not have taken part in any consideration of the subject-matter of that particular hearing. No prior consideration of matter

(4) Despite subsection (3), a member holding a hearing may examine prior to the hearing any material required under any Act to be filed with the Board by the parties to the proceeding. Idem

(5) The Board shall fix a time and place for the hearing of the matter and shall at least ten days before the day fixed cause notice of the hearing to be served upon the person who has required the hearing. Notice

(6) Despite subsection (5), the Board may, on the consent of all parties, commence a hearing earlier than ten days after notice of the hearing is served under subsection (5). Idem

(7) The Board may, in such manner as it considers advisable, give notice of a hearing to such other persons as it considers appropriate. Idem

(8) A person upon whom notice of a hearing is served under subsection (5) and any other person added by the Board are parties to the proceeding. Parties

Decision and
reasons

(9) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceeding.

Powers

(10) Following a hearing to consider a proposal to review an application for a licence to sell liquor, the Board may approve the application or may refuse to issue the licence.

Idem

(11) Following a hearing to consider any other proposal referred to in subsection 21 (1), (2) or (3), the Board may decline to carry out the proposal or may carry out the proposal, in whole or in part, and with any changes that the Board considers appropriate, and the Board may approve an application to which the proposal relates.

Conditions

(12) Following a hearing, the Board may attach to a licence or permit any condition that the Board considers proper to give effect to the purposes of this Act.

Stay

(13) An order of the Board takes effect immediately unless otherwise provided in the order but, if an appeal is made to the Divisional Court, the Court may grant a stay until the disposition of the appeal.

Oaths

(14) Every member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings.

Expiry of
term

(15) A member of the Board sitting for a hearing whose term of office expires before the hearing is completed remains a member of the Board for the purpose of completing the hearing in the same manner as if his or her term of office had not expired.

Reviewing
decision or
order

24.—(1) Upon the request of a person to whom a decision or order of the Board relates, the Board may review the decision or order and, if the board considers it appropriate, may vary or rescind the decision or order.

Consent

(2) If a decision or order being reviewed under this section was made following a hearing, the Board may vary or rescind it only upon the consent of all parties to the hearing.

Public
interest

(3) A request may not be made to review a decision or order refusing the issuance of a licence to sell liquor or revoking, suspending or refusing to renew such a licence, if the decision or order is based on the ground under clause 6 (2) (h).

25.—(1) A party to a proceeding before the Board under section 23 may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Appeal to Divisional Court

(2) An appeal under this section may be made on a question of law only.

Question of law only

(3) The Board is a party to an appeal under this section.

Board a party

(4) The Minister of Consumer and Commercial Relations is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Right to be heard

26.—(1) A notice, order or other document that is required or permitted under this Act to be given or delivered to or served on a person is sufficiently given, delivered or served if it is,

Service

- (a) delivered personally;
- (b) sent by first class mail addressed to the person at the person's last known address; or
- (c) served in a prescribed manner.

(2) A notice, order or other document sent by first class mail in accordance with clause (1) (b) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that it was not received on or before that date because of absence, accident, illness or other cause beyond the person's control.

Idem

RESPONSIBLE USE

27. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell liquor.

Unlawful purchase

28. No manufacturer or employee, agent or licensed representative of a manufacturer shall give any liquor to any person, except as permitted by the regulations.

Unlawful gift

29. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person who is or appears to be intoxicated.

Sale to intoxicated person

30.—(1) No person shall knowingly sell or supply liquor to a person under nineteen years of age.

Sale to person under nineteen

Idem

(2) No person shall sell or supply liquor to a person who appears to be under nineteen years of age.

Permitting
possession or
consumption

(3) No licensee or employee or agent of a licensee shall knowingly permit a person under nineteen years of age to have or consume liquor in the licensee's licensed premises.

Idem

(4) No licensee or employee or agent of a licensee shall permit a person who appears to be under nineteen years of age to have or consume liquor in the licensee's licensed premises.

Exception to
subss. (3)
and (4)

(5) Subsections (3) and (4) do not prohibit a licensee or employee or agent of a licensee from permitting a person eighteen years of age to be in possession of liquor during the course of the person's employment on the licensee's licensed premises.

Vendor may
rely on
documen-
tation

(6) A person who sells or supplies liquor to another person or permits another person to have or consume liquor in licensed premises on the basis of documentation of a prescribed type is not in contravention of subsection (2) or (4) if there is no apparent reason to doubt the authenticity of the documentation or that it was issued to the person producing it.

Court may
determine
apparent age

(7) In a prosecution for a contravention of subsection (2) or (4), the court may determine, from the appearance of the person and from other relevant circumstances, whether a person to whom liquor was served or supplied or a person who was permitted to have or consume liquor appears to be under nineteen years of age.

Possession or
consumption

(8) No person under nineteen years of age shall have, consume, attempt to purchase, purchase or otherwise obtain liquor.

Exception to
subs. (8)

(9) Subsection (8) does not prohibit a person eighteen years of age from being in possession of liquor during the course of the person's employment on premises in which the sale of liquor is authorized.

Entering
premises

(10) No person under nineteen years of age shall enter or remain on premises in which the sale of liquor is authorized if the person knows that a condition of the licence or permit for the premises prohibits the entry of persons under nineteen years of age.

Exception to
subs. (10)

(11) Subsection (10) does not apply to a person eighteen years of age who is employed on premises in which the sale of

liquor is authorized while the person is on the premises during the course of his or her employment.

(12) No person shall present as evidence of his or her age any documentation other than documentation that was lawfully issued to him or her. Improper documentation

(13) This section does not apply, Supply by parent

- (a) to the supplying of liquor to a person under nineteen years of age in a residence as defined in section 31 or in a private place as defined in the regulations by a parent of the person or a person having lawful custody of the person; or
- (b) to the consumption of liquor by a person who is supplied liquor in a manner described in clause (a), if the liquor is consumed at the place where it is supplied.

31.—(1) In this section, “residence” means a place that is actually occupied and used as a dwelling, whether or not in common with other persons, including all premises used in conjunction with the place to which the general public is not invited or permitted access, and, if the place occupied and used as a dwelling is a tent, includes the land immediately adjacent to and used in conjunction with the tent. Unlawful possession or consumption

(2) No person shall have or consume liquor in any place other than, Unlawful possession or consumption

- (a) a residence;
- (b) premises in respect of which a licence or permit is issued; or
- (c) a private place as defined in the regulations.

(3) Subsection (2) does not apply to the possession of liquor that is in a closed container. Exception

(4) No person shall be in an intoxicated condition, Intoxication

- (a) in a place to which the general public is invited or permitted access; or
- (b) in any part of a residence that is used in common by persons occupying more than one dwelling in the residence.

Arrest
without
warrant

(5) A police officer may arrest without warrant any person whom he or she finds contravening subsection (4) if, in the opinion of the police officer, to do so is necessary for the safety of any person.

Conveying
liquor in
vehicle
R.S.O. 1980,
c. 198

32.—(1) No person shall drive or have the care or control of a motor vehicle as defined in the *Highway Traffic Act* or a motorized snow vehicle, whether it is in motion or not, while there is contained in the vehicle any liquor, except under the authority of a licence or permit.

Exception

(2) Subsection (1) does not apply if the liquor in the vehicle,

- (a) is in a container that is unopened and the seal unbroken; or
- (b) is packed in baggage that is fastened closed or is not otherwise readily available to any person in the vehicle.

Conveying
liquor in
boat

(3) No person shall operate or have the care or control of a boat that is underway while there is contained in the boat any liquor, except under the authority of a licence or permit.

Exception

(4) Subsection (3) does not apply if the liquor in the boat,

- (a) is in a container that is unopened and the seal unbroken; or
- (b) is stored in a closed compartment.

Search of
vehicle or
boat

(5) A police officer who has reasonable grounds to believe that liquor is being unlawfully kept in a vehicle or boat may at any time, without a warrant, enter and search the vehicle or boat and search any person found in it.

Definition

(6) In this section, “boat” includes any ship or boat or any other description of vessel used or designed to be used in the navigation of water.

Unlawful
consumption
or supply of
alcohol

33. No person shall,

- (a) drink alcohol in a form that is not a liquor; or
- (b) supply alcohol in a form that is not a liquor to another person, if the person supplying the alcohol knows or ought to know that the other person intends it to be used as a drink.

34.—(1) The holder of a licence or permit issued in respect of premises shall ensure that a person does not remain on the premises if the holder has reasonable grounds to believe that the person,

Removing person from premises

- (a) is unlawfully on the premises;
- (b) is on the premises for an unlawful purpose; or
- (c) is contravening the law on the premises.

(2) The holder of a licence or permit may request a person referred to in subsection (1) to leave the premises immediately and if the request is not forthwith complied with may remove the person or cause the person to be removed by the use of no more force than is necessary.

Idem

(3) If there are reasonable grounds to believe that a disturbance or breach of the peace sufficient to constitute a threat to the public safety is being caused on premises for which a licence or permit is issued, a police officer may require that all persons vacate the premises.

Order to vacate premises

(4) The holder of the licence or permit for premises that are required to be vacated under subsection (3) shall take all reasonable steps to ensure that the premises are vacated.

Idem

(5) A licensee or employee of a licensee who has reason to believe that the presence of a person on the licensee's licensed premises is undesirable may,

Right to refuse entry

- (a) request the person to leave; or
- (b) forbid the person to enter the licensed premises.

(6) No person shall,

Not to remain after request to leave

- (a) remain on licensed premises after he or she is requested to leave by the licensee or an employee of the licensee; or
- (b) re-enter the licensed premises on the same day he or she is requested to leave.

35.—(1) The council of a municipality may by by-law designate a recreational area within the municipality that is owned or controlled by the municipality as a place where the possession of liquor is prohibited.

By-law designating recreational area

- Non-application of subs. (1) (2) A designation under subsection (1) does not prevent the Board from issuing any licence or permit under this Act.
- Unlawful possession (3) No person shall have liquor in a place designated under subsection (1).
- Exception to subs. (3) (4) Subsection (3) does not apply to a person in possession of liquor under the authority of a licence or permit or in possession of liquor purchased on a premises in respect of which a licence or permit is issued.
- Definition (5) In this section, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford.
- Taking to hospital in lieu of charge **36.**—(1) A police officer who finds a person apparently in contravention of subsection 31 (4) may take the person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a hospital designated by the regulations.
- Protection from liability (2) No action or other proceeding for damages shall be instituted against any physician or any hospital or officer or employee of a hospital on the grounds only that the person examines or treats without consent a person who is brought to the hospital under subsection (1).
- Detention in institution **37.**—(1) If it appears that a person in contravention of subsection 31 (4) may benefit therefrom, the court making the conviction may order the person to be detained for treatment for a period of ninety days or such lesser period as the court thinks advisable in an institution designated by the regulations.
- Idem (2) If, at any time during a person's period of detention ordered under subsection (1), the superintendent of the institution is of the opinion that further detention in the institution will not benefit the person, the superintendent may release the person.
- Advertising **38.**—(1) No person shall advertise liquor except in accordance with the regulations.
- Order of cessation (2) If two members of the Board are of the opinion that an advertisement contravenes this Act or the regulations, the Board may order the cessation of the use of the advertisement.

(3) The Board shall serve notice of an order under subsection (2), together with reasons therefor, on the person to whom the order is directed.

Notice of order

(4) A notice of an order shall inform the person to whom the order is directed that the person is entitled to a hearing by the Board if the person mails or delivers to the Board, within fifteen days after the notice is served on the person, notice in writing requiring a hearing by the Board, and the person may so require such a hearing.

Notice requiring hearing

(5) Unless otherwise provided in the order, an order under subsection (2) takes effect immediately.

Commencement of order

(6) If a hearing is required, an order under subsection (2) expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Board may extend the time of expiration until the hearing is concluded.

Expiry of order

(7) If the Board is required to hold a hearing under subsection (4), the provisions of section 23 apply with necessary modifications to the hearing.

Application of s. 23

(8) Following a hearing to consider an order under subsection (2), the Board may confirm, vary or rescind the order.

Powers

39. The following rules apply if a person or an agent or employee of a person sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate the person or increase the person's intoxication so that he or she would be in danger of causing injury to himself or herself or injury or damage to another person or the property of another person:

Civil liability

1. If the person to or for whom the liquor is sold commits suicide or meets death by accident while so intoxicated, an action under Part V of the *Family Law Act, 1986* lies against the person who or whose employee or agent sold the liquor.
2. If the person to or for whom the liquor is sold causes injury or damage to another person or the property of another person while so intoxicated, the other person is entitled to recover an amount as compensation for the injury or damage from the person who or whose employee or agent sold the liquor.

1986, c. 4

40.—(1) This Act does not prevent,

Exception for drugs and medicines

R.S.O. 1980,
c. 196

(a) the sale of a drug dispensed as a medicine by a person authorized to do so under the *Health Disciplines Act*;

(b) the sale of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of the *Health Disciplines Act* for a person under health care provided by the hospital or institution;

R.S.C. 1985,
c. F-27

(c) the sale of a medicine registered under the *Food and Drugs Act* (Canada), except a sale that contravenes clause 33 (b); or

(d) the sale of a drug to a person authorized under the *Health Disciplines Act* to dispense, prescribe or administer drugs.

Idem

(2) This Act does not prevent the purchase of a drug or medicine pursuant to a sale described in subsection (1).

Exception for
research and
education

41. This Act does not prevent the possession, service or consumption of liquor for research or educational purposes as approved by the Board in accordance with the regulations.

Intoxicating
liquor
R.S.C. 1985,
c. I-3

42. Liquor shall be deemed to be an intoxicating liquor for purposes of the *Importation of Intoxicating Liquors Act* (Canada).

COMPLIANCE

Persons
designated by
chair

43.—(1) The chair of the Board may designate persons employed by the Board as persons who may carry out inspections for the purpose of determining whether there is compliance with this Act and the regulations.

Certificate of
designation

(2) A person designated under subsection (1) who is exercising a power under this Act shall, on request, produce his or her certificate of designation.

Inspections

44.—(1) For the purpose of ensuring compliance with this Act and the regulations, a person designated under subsection 43 (1) may,

(a) enter any place at any reasonable time;

(b) request the production for inspection of documents or things that may be relevant to the inspection;

- (c) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the inspection;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee or permit holder and into assets owned, held in trust, acquired or disposed of by a licensee or permit holder that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary; and
- (f) remove materials or substances for examination or test purposes subject to the licensee, permit holder or other occupant of the premises being notified thereof.

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier.

Entry to dwellings

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant,

Warrant

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to search for and seize any document or thing relevant to the inspection; or
- (c) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that,

Requirements for warrant to issue

- (a) in the case of a warrant to be issued under clause (3) (a), a person designated under subsection 43 (1) has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there are reasonable grounds to believe that such a person may be prevented from doing any of those things;
- (b) in the case of a warrant to be issued under clause (3) (b), it is necessary to search for and seize a document or thing that there are reasonable grounds to believe will afford evidence relevant to a contravention of this Act or the regulations; or

- (c) in the case of a warrant to be issued under clause (3) (c), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there are reasonable grounds to believe is relevant to an inspection under this Act.

Execution of
warrant

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Expiry

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Notice not
required

(7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.

Renewal of
warrant

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Experts

(9) A person carrying out an inspection under this Act is entitled to call upon such experts as are necessary to assist the person in carrying out the inspection.

Assistance

(10) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Copies

(11) A person carrying out an inspection under this Act who takes material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Admissibility
of copies

(12) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction

45.—(1) No person shall obstruct a person carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Facilitating
inspection

(2) It is a condition of each licence and permit issued under this Act that the licensee or permit holder facilitate an inspection relevant to the licence or permit.

46. Liquor kept for sale or offered for sale in contravention of subsection 5 (1) and liquor purchased in contravention of section 27 is forfeited to the Crown. Forfeiture of liquor

47.—(1) If liquor is found by a police officer under circumstances where the liquor constitutes evidence necessary to prove a contravention of this Act, or if an offence appears to have been committed under this Act and a police officer, on reasonable grounds, in view of the offence apparently committed and the presence of liquor, believes that a further offence is likely to be committed, the police officer may seize and take away the liquor and the packages in which it is kept. Seizure of liquor

(2) A provincial offences court may, upon the application of any person made within thirty days of a seizure under subsection (1), order that the things seized be restored forthwith to the applicant if the court is satisfied that, Order of restoration

- (a) the applicant is entitled to possession of the things seized; and
- (b) the things seized are not required as evidence in any proceeding.

(3) If the court is satisfied that an applicant under subsection (2) is entitled to possession of the things seized but is not satisfied as to the matter mentioned in clause (2) (b), it shall order that the things seized be restored to the applicant, Idem

- (a) upon the expiration of three months from the date of the seizure, if no proceeding in respect of an offence has been commenced; or
- (b) upon the final conclusion of any such proceeding.

(4) If no application has been made for the return of a thing seized under subsection (1) or an application has been made but upon the hearing of the application no order of restoration has been made, the thing seized is forfeited to the Crown. Forfeiture

(5) If a person is convicted of an offence under this Act, any thing seized under subsection (1) by means of which the offence was committed is forfeited to the Crown. Idem

48. If a police officer finds a person apparently in contravention of this Act and the person refuses to give his or her name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant. Arrest without warrant

Confiden-
tiality

49.—(1) Every person engaged in the administration of this Act shall preserve confidentiality in respect of all matters that come to his or her knowledge in the course of his or her duties and shall not communicate any such matter to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act;
- (b) to his or her counsel; or
- (c) with the consent of the person to whom the matter relates.

Testimony in
civil
proceeding

(2) No person engaged in the administration of this Act shall be required to give testimony in any civil proceeding with regard to information obtained by the person in the course of the person's duties except in a proceeding under this Act.

Chair's
certificate

50. A statement as to any of the following matters purporting to be certified by the chair of the Board is admissible in evidence in any proceeding without proof of the office or signature of the chair and is proof, in the absence of evidence to the contrary, of the information set out in the statement:

- 1. The issuance or non-issuance of a licence or permit.
- 2. The filing or non-filing of any document or material required or permitted to be filed with the Board.
- 3. Any matter in addition to those referred to in paragraphs 1 and 2 that pertains to licences or permits or filing or non-filing.
- 4. The time when the facts upon which a proceeding is based first came to the knowledge of the Board.

Analyst's
certificate or
report

51. A certificate or report purporting to be signed by a federal or provincial analyst as to the composition of any liquor or any other substance is admissible in any proceeding under this Act as evidence of the information set out in the certificate or report and of the authority of the person giving it or making it, without proof of the appointment or signature of the person.

LOCAL OPTION

52.—(1) Subject to section 53 and the regulations, no licence to sell liquor may be issued for premises in a municipality or part thereof in which the sale of liquor under a licence was prohibited under the law as it existed immediately before the date this Act comes into force. Prohibited areas

(2) Subject to section 53 and the regulations, no government store may be established in a municipality or part thereof in which the sale of liquor in a government store was prohibited under the law as it existed immediately before the date this Act comes into force. Idem

(3) Despite subsection (2), government stores may be established in a municipality or part thereof in which it is lawful to issue licences to sell liquor. Exception

(4) Despite subsections (1) and (2), Idem

(a) a government store established before the 1st day of January, 1990 shall be deemed to have been lawfully established; and

(b) a licence to sell liquor issued before the 1st day of January, 1990 shall be deemed to have been lawfully issued.

(5) Subject to section 53 and the regulations, in a municipality or part thereof in which, under the law as it existed immediately before the date this Act comes into force, the sale of beer and wine only was permitted in licensed premises, a licence to sell liquor shall be deemed to contain a condition that beer and wine only may be sold in the licensed premises. Sale of beer and wine only

53.—(1) The council of a municipality may submit to a vote one or more of the prescribed questions respecting the authorization of the sale of liquor in the municipality. Local option to authorize sale

(2) The council of a municipality shall submit to a vote such prescribed questions respecting the authorization of the sale of liquor in the municipality as are requested by a petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election. Idem

(3) Government stores may be established in a municipality in which 60 per cent of the electors voting on a question vote in favour of the sale of liquor in government stores. Establishing stores

Issuing
licences

(4) Licences to sell liquor may be issued for premises in a municipality in which 60 per cent of the electors voting on a question vote in favour of the sale of liquor in licensed premises.

Local option
to cease sale

54.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may submit to a vote one or more of the prescribed questions respecting the prohibition of the sale of liquor in the municipality.

Idem

(2) The council of a municipality shall submit to a vote such prescribed questions respecting the prohibition of the sale of liquor in the municipality as are requested by a petition signed by at least 25 per cent of the persons appearing on the list of electors, as revised, prepared for the previous municipal election.

Closing
stores

(3) If 60 per cent of the electors voting on a question vote in favour of prohibiting the sale of liquor in government stores, all government stores established in the municipality shall be closed as of the 31st day of March in the following year.

Revoking
licences

(4) If 60 per cent of the electors voting on a question vote in favour of prohibiting the sale of liquor in licensed premises, all licences to sell liquor issued for premises in the municipality shall be deemed to be revoked as of the 31st day of March in the following year.

No right to
a hearing

(5) Sections 15 and 21 do not apply where a licence is deemed to be revoked under subsection (4).

Day of
polling

R.S.O. 1980,
c. 308

55.—(1) Subject to subsection (2), the day fixed for taking a vote on any question under section 53 or 54 shall be the polling day of the next regular election under the *Municipal Elections Act*, unless the council of the municipality, with the approval of the Board, fixes some other day and so notifies the clerk of the municipality.

Idem

(2) A poll shall not be held on any question until after sixty days from,

- (a) the filing of the petition requiring the question to be submitted; or
- (b) the date the council approves the submission of the question, if the council submits the question without a petition.

56. The persons eligible to vote on a question under section 53 or 54 are the persons who would be eligible to vote at an election held under the *Municipal Elections Act* on the day fixed for taking the vote on the question.

Eligible voters

R.S.O. 1980, c. 308

57. The provisions of the *Municipal Elections Act* apply to the taking of a vote under this Act.

Application of

R.S.O. 1980, c. 308

58.—(1) The returning officer shall make a return to the Board showing the number of votes polled for the affirmative and negative on each question submitted.

Return to Board

(2) Upon receiving the return, the Board shall give notice of the return in *The Ontario Gazette*, showing the total number of votes polled in the municipality for the affirmative and negative on each question.

Idem

59. If a question under section 53 or 54 is submitted for a vote in a municipality or part thereof, no further vote may be held in the municipality or part on any question under section 53 or 54 until after thirty-five months from the date of the vote on the question.

Resubmitting questions

60.—(1) The status under this Act of a municipality that is amalgamated with another municipality that has a different status,

Amalgamation does not affect status

(a) is not affected by the amalgamation; and

(b) may be changed only by a vote under this Act in the municipality amalgamated.

(2) The status under this Act of a municipality or part of a municipality that is annexed to another municipality that has a different status,

Annexation does not affect status

(a) is not affected by the annexation; and

(b) may be changed only by a vote under this Act in the municipality or part annexed.

(3) In a municipality amalgamated or municipality or part annexed to which subsection (1) or (2) applies, the persons qualified to sign a petition under section 53 or 54 are the persons whose names appear on the list of electors, as revised, prepared for the previous municipal election held in the municipality amalgamated or municipality or part annexed, as the case may be.

Who may sign petition

Who may
vote

(4) In a municipality amalgamated or municipality or part annexed to which subsection (1) or (2) applies, the persons eligible to vote on a question under section 53 or 54 are the persons who would be eligible to vote at an election held under the *Municipal Elections Act* in the municipality amalgamated or municipality or part annexed, as the case may be.

R.S.O. 1980,
c. 308

OFFENCES

Offences

61.—(1) A person is guilty of an offence if the person,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act;
- (b) knowingly fails to comply with an order under subsection 38 (2); or
- (c) contravenes any provision of this Act or the regulations.

Derivative

(2) A director or officer of a corporation who caused, authorized, permitted or participated in an offence under this Act by the corporation is guilty of an offence.

Penalties

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year or both.

Idem

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$100,000.

Additional
penalty

(5) In addition to any other penalty or action under this Act, the licence of a licensee who contravenes subsection 30 (1) or (2) shall be suspended for a period of not less than seven days.

Minimum
fine

(6) If a licensee contravenes subsection 30 (1), (2), (3) or (4), the fine imposed under this section shall be not less than \$500.

Idem

(7) If a person who is not a licensee contravenes subsection 30 (1), (2), (3) or (4), the fine imposed under this section shall be not less than \$100.

Limitation

(8) Subject to subsection (9), no proceeding under this section shall be commenced more than two years after the offence was committed.

(9) No proceeding under clause (1) (a) and no proceeding under subsection (2) that relates to a matter referred to in clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board. Idem

REGULATIONS

62.—(1) The Lieutenant Governor in Council may make regulations, Regulations

1. prescribing anything that is referred to in this Act as being prescribed;
2. governing the issuance, renewal, transfer and expiry of licences;
3. governing the issuance and expiry of permits;
4. prescribing conditions that attach to licences and permits;
5. prescribing the special occasions for which permits may be issued;
6. prescribing fees for the purposes of this Act and the regulations, including fees payable in respect of late applications and late payment of fees;
7. requiring the payment of fees;
8. exempting any person, product or premises from any provision of this Act or the regulations;
9. requiring licensees and permit holders to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;
10. controlling the advertising of liquor or its availability for sale and requiring that advertisements be subject to the approval of the Board;
11. prescribing standards for licensed premises and premises used by permit holders for the sale and service of liquor;

12. prescribing or prohibiting methods and practices in connection with the serving of liquor;
13. prohibiting licensees and permit holders from permitting any person to engage in prescribed activities on their premises;
14. governing the sale and service of liquor by a holder of a licence to sell liquor in a place other than licensed premises;
15. prescribing classes of premises on which a person under the age of nineteen years may not enter;
16. prescribing rules for proceedings before the Board;
17. governing the issuance of documentation for proof of age;
18. prescribing hours of sale of liquor;
19. authorizing the Board to extend the hours of sale of liquor during events of municipal, provincial, national or international significance;
20. prohibiting manufacturers and employees, agents and licensed representatives of manufacturers from offering or giving inducements or engaging in prescribed practices with respect to the sale or promotion of liquor;
21. prescribing the circumstances in which a manufacturer or employee, agent or licensed representative of a manufacturer may give liquor as a gift;
22. prescribing the circumstances in which a manufacturer may obtain a licence to sell liquor despite subsection 6 (4);
23. regulating and controlling the possession and delivery of liquor sold under a licence or permit;
24. authorizing the Board to approve training courses for the service or delivery of liquor;
25. authorizing the Board to approve a temporary physical extension of licensed premises;

26. authorizing the Board to exempt any person from the requirement to provide information in respect of an application for a licence or permit;
27. governing the approval by the Board of the possession, service or consumption of liquor for research or educational purposes;
28. prescribing the circumstances in which, following a prescribed change of ownership in respect of a licence, liquor may be kept for sale, offered for sale or sold or delivered for a fee under the authority of the licence despite subsection 16 (1) or (2);
29. designating classes of persons for the purpose of section 19;
30. defining "private place" for purposes of sections 30 and 31;
31. designating hospitals for purposes of section 36;
32. designating institutions for purposes of section 37, governing the transfer and admission of persons to and detention of persons in such institutions and providing for the management of such institutions;
33. prescribing licences that may be issued in a municipality despite section 52;
34. prohibiting or regulating and controlling the possession of liquor in provincial parks, in a park managed or controlled by The Niagara Parks Commission, The St. Lawrence Parks Commission, The St. Clair Parkway Commission or on lands owned or controlled by a conservation authority established or continued under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

(2) A regulation may be general or particular in its application.

Scope of
regulations

(3) Any provision of a regulation may be subject to such conditions, qualifications or requirements as are specified in the regulation.

Conditions,
qualifications,
requirements

MISCELLANEOUS

Transition,
licence

63.—(1) A licence under a predecessor to this Act continues in force until it expires or is earlier revoked or suspended.

Idem, permit

(2) A permit under a predecessor to this Act continues in force until it expires or is earlier revoked.

Idem,
registration

(3) A registration as an agent or representative of a manufacturer under a predecessor to this Act continues in force until it expires or is earlier revoked or suspended.

Appeal to
C.R.A.T.

(4) A decision of the Board under section 12 of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, that is issued before the date this Act comes into force may be appealed to The Commercial Registration Appeal Tribunal in accordance with section 14 of that Act.

Repeals

64. The following are repealed:

1. The *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980.
2. The *Liquor Licence Amendment Act, 1981*, being chapter 1.
3. Item 7 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.
4. The *Liquor Licence Amendment Act, 1984*, being chapter 4.
5. The *Liquor Licence Amendment Act, 1986*, being chapter 60.

1981, c. 53

65. Section 19 of the *Human Rights Code, 1981*, as amended by the Statutes of Ontario, 1986, chapter 64, section 18, is further amended by adding the following subsection:

Minimum
drinking age

(2) The right under section 1 to equal treatment with respect to services, goods and facilities without discrimination because of age is not infringed by the provisions of the *Liquor Licence Act, 1990* and the regulations under it relating to providing for and enforcing a minimum drinking age of nineteen years.

1990, c. 15

66. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

67. The short title of this Act is the *Liquor Licence Act*, Short title
1990.

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